रजिस्ट्री सं० डी एल (एन) 04/0007/2003—05 REGD. No. DL (N) 04/0007/2003—05

भारत का राजपत्र
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सं. 10] नई दिल्ली, फरवरी 29—मार्च 6, 2004, शनिवार/फाल्गुन 10—फाल्गुन 16, 1925
No. 10] NEW DELHI, FEBRUARY 29—MARCH 6, 2004, SATURDAY/PHALGUNA 10—PHALGUNA 16, 1925

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

मंत्रिमंडल सचिवालय

नई दिल्ली, 23 फरवरी, 2004

का. आ. 513— केंद्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इलाहाबाद उच्च न्यायालय द्वारा दंड प्रकीर्ण रिट याचिका सं. 7478/2003 में पारित आदेश दिनांक 27-11-2003 के अनुपालन में 11 ठेकेदारों के विरुद्ध थाना कोतवाली देवरिया, जिला देवरिया, उत्तर प्रदेश में दर्ज अपराध मामला सं. 1644/2003 दिनांक 27-06-2003 के संबंध में भारतीय दंड संहिता की धारा 255, 259, 260, 467, 468, 469 और 471 के अधीन अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्न, दुष्प्रेरणों और षड्यंत्रों तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण उत्तर प्रदेश राज्य पर करती है।

[सं. 228/5/2004-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

CABINET SECRETARIAT

New Delhi, the 23rd February, 2004

S. O. 513.— In exercise of the powers conferred by Sub-section (1) of Section 5 of Delhi Special Police Establishment Act, 1946, (Act No. 25 of 1946), the Central Government in compliance with order dated 27-11-2003 passed by the High Court of judicature of Allahabad in Criminal Misc. Writ Petition No. 7478 of 2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for investigation of Crime No. 1644/2003 dated 27-6-2003 registered at Police Station Kotwali, Deoria (Uttar Pradesh) against eleven contractors for the offences under sections 255, 259, 260, 467, 468, 469 and 471 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and

attempt, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/5/2004-DSPE]

SHUBHA THAKUR, Under Secy.

विधि और न्याय मंत्रालय

(विधि कार्य विभाग)

(न्यायिक अनुभाग)

नई दिल्ली, 25 फरवरी, 2004

का.आ. 514.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री के.बी. राव, अधिवक्ता को मुंबई उच्च न्यायालय में भारत संघ या केन्द्रीय सरकार के किसी कार्यालय या केन्द्रीय सरकार के किसी विभाग द्वारा या उसके विरुद्ध सभी दांडिक मामलों का, जिसके अंतर्गत दांडिक रिट याचिकाएं, दांडिक अपील, दांडिक पुनरीक्षण, दांडिक निर्देश आवेदन भी हैं, संचालन करने के प्रयोजन के लिए निम्नलिखित शर्तों के अध्यधीन तुरंत प्रभाव से तीन वर्ष की अवधि के लिए या अगले आदेश तक, इनमें से जो भी पहले हो, अपर लोक अभियोजक के रूप में नियुक्त करती है, अर्थात् :—

(1) श्री के.बी. राव, अधिवक्ता उक्त तीन वर्ष की अवधि के दौरान, मुंबई उच्च न्यायालय में ऊपर निर्दिष्ट दांडिक मामलों में भारत संघ या केंद्रीय सरकार के किसी विभाग के विरुद्ध उपसंजात नहीं होंगे,

(2) श्री के.बी. राव, अधिवक्ता विधि, न्याय और कंपनी कार्य मंत्रालय, विधि कार्य विभाग, नई दिल्ली द्वारा जारी कार्यालय ज्ञापन सं. एफ. 23 (2)/2001-न्या., तारीख 14 मई, 2001 में अंतर्विष्ट फीस के विवरण के अनुसार फीस के हकदार होंगे।

[सं. एफ. 23(2)/2003-न्या.]

डी०आर० मीणा, संयुक्त सचिव और विधि सलाहकार

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

(Judicial Section)

New Delhi, the 25th February, 2004

S. O.514.— In exercise of the powers conferred by Sub-section (1) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri K.B. Rao, Advocate, as Additional Public Prosecutor for the purpose of conducting all criminal cases including Criminal Writ Petitions, Criminal Appeals, Criminal Revisions, Criminal References and Criminal Applications by or against the Union of India or any Central Government Office or any Department of the Central Government, in the High Court of Judicature at Mumbai, for a period of three years or until further orders, whichever is earlier, with immediate effect, subject to the following conditions, namely :—

(a) Shri K.B. Rao, Advocate, shall not appear against the Union of India or any Central Government Office or any Department of the Central Government in any criminal cases referred to above in the High Court of Judicature at Mumbai during the said period of three years;

(b) Shri K.B. Rao, Advocate, shall be entitled to the fee as per the statement of fees contained in the Office Memorandum No. F. 23 (2)/2001-Judl., dated the 14th May, 2001, issued by the Ministry of Law, Justice and Company Affairs, Department of Legal Affairs, New Delhi.

[No. F. 23 (2)/2003-Judl.]

D.R. MEENA, Jt. Secy. and Legal Adviser

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 9 फरवरी, 2004

स्टाम्प

का. आ. 515.— भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा इलाहाबाद बैंक, कलकत्ता, को मात्र सड़सठ लाख पैंतालीस हजार रुपए का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त बैंक द्वारा जारी किए जाने वाले मात्र एक सौ करोड़ रुपए के समग्र मूल्य के प्रोमिसरी-नोटों के स्वरूप में असुरक्षित विमोच्य अपरिवर्तनीय गौण बंधपत्रों (शृंखला-III) पर स्टाम्प शुल्क के संदाय प्रभार्य है।

[फा० सं. 4/2004-स्टाम्प/फा.सं. 33/10/2004-बि. क.]

आर.जी. छाबड़ा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 9th February, 2004

STAMPS

S. O. 515.— In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Allahabad Bank, Calcutta to pay consolidated stamp duty of rupees sixty seven lakh forty five thousand only chargeable on account of the stamp duty on Unsecured Redeemable Non-Convertible Subordinated Bonds (Series-III) in the nature of Promissory Notes aggregating to rupees one hundred crore only, to be issued by the said Bank.

[F. No. 4/2004-STAMP/F. No. 33/10/2004-ST]

R.G. CHHABRA, Under Secy.

आदेश

नई दिल्ली, 16 फरवरी, 2004

स्टाम्प

का. आ. 516— भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा यूटीआई बैंक लिमिटेड, अहमदाबाद को मात्र उनहत्तर लाख बयासी हजार पांच सौ रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त बैंक द्वारा जारी किए जाने वाले मात्र तिरानबे करोड़ दस लाख रुपये के समग्र मूल्य के 001 से 008 तक विशिष्ट संख्या वाले असुरक्षित अपरिवर्तनीय गौण डिबेन्चरों पर स्टाम्प शुल्क के कारण प्रभार्य है।

[फा. सं. 5/2004-स्टाम्प/फा. सं. 33/11/2004-बि.क.]

आर.जी. छाबड़ा, अवर सचिव

ORDER

New Delhi, the 16th February, 2004

STAMPS

S.O. 516.—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Govenment hereby permits UTI Bank Limited, Ahmedabad to pay consolidated stamp duty of rupees sixty nine lakh eighty two thousand five hundred only chargeable on account of the stamp duty on **unsecured non-convertible subordinated Debenatures bearing distinctive numbers from 001 to 008** aggregating to rupees ninety three crore ten lakh only, to be issued by the said Bank.

[F. No. 5/2004-STAMP/F. No. 33/11/2004-ST]

R.G. CHHABRA, Under Secy.

नई दिल्ली, 17 फरवरी, 2004

का. आ. 517.— केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में राजस्व विभाग के अधीन केन्द्रीय उत्पाद एवं सीमा शुल्क बोर्ड के अधीन निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत कर्मचारीवृंद ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

केन्द्रीय उत्पाद शुल्क आयुक्तालय, जयपुर-I

1. केन्द्रीय उत्पाद शुल्क संभाग, जयपुर-I,
2. केन्द्रीय उत्पाद शुल्क संभाग, जयपुर-II,
3. केन्द्रीय उत्पाद शुल्क संभाग, सीकर,
4. केन्द्रीय उत्पाद शुल्क संभाग, कोटा,
5. केन्द्रीय उत्पाद शुल्क संभाग, अलवर,
6. केन्द्रीय उत्पाद शुल्क संभाग, भिवाड़ी।

केन्द्रीय उत्पाद शुल्क आयुक्तालय, जयपुर-II

1. केन्द्रीय उत्पाद शुल्क संभाग, उदयपुर
2. केन्द्रीय उत्पाद शुल्क संभाग, अजमेर
3. केन्द्रीय उत्पाद शुल्क संभाग, भीलवाड़ा
4. केन्द्रीय उत्पाद शुल्क संभाग, चित्तौड़गढ़,
5. केन्द्रीय उत्पाद शुल्क संभाग, जोधपुर।

सीमा शुल्क आयुक्तालय, जयपुर

1. सीमा शुल्क संभाग, जोधपुर,
2. सीमा शुल्क संभाग, जैसलमेर,
3. सीमा शुल्क संभाग, बाड़मेर,
4. सीमा शुल्क संभाग, बीकानेर,
5. सीमा शुल्क संभाग, श्रीगंगानगर।

[फा. सं. 11011/3/2002-हिंदी-2]

स्नेहलता श्रीवास्तव, संयुक्त सचिव

New Delhi, the 17th February, 2004

S.O. 517.—In pursuance of sub-rule (4) of rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976 the Central Government hereby notifies the following offices under the Board of Central Excise & Customs, Department of Revenue the 80% staff whereof have acquired the working knowledge of Hindi :—

CENTRAL EXCISE COLLECTORATE, JAIPUR-I

1. Central Excise Division, Jaipur-1,
2. Central Excise Division, Jaipur-II,
3. Central Excise Division, Sikar,
4. Central Excise Division, Kota,
5. Central Excise Division, Alwar,
6. Central Excise Division, Bhiwadi.

CENTRAL EXCISE COLLECTORATE, JAIPUR-II

1. Central Excise Division, Udaipur,
2. Central Excise Division, Ajmer,
3. Central Excise Division, Bhilwada,
4. Central Excise Division, Chittorgarh,
5. Central Excise Division, Jodhpur.

COLLECTORATE, OF CUSTOM, JAIPUR

1. Custom Division, Jodhpur,
2. Custom Division, Jaisalmer,
3. Custom Division, Barmer,
4. Custom Division, Bikaner,
5. Custom Division, Sriganganagar.

[F. No. 11011/3/2002-Hindi-2]

SNEH LATA SHRIVASTAVA, Jt. Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 25 फरवरी, 2004

का०आ० 518.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21क के साथ पठित धारा 21 की उपधारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् श्री रसिकलाल नानचंददास शाह, व्यवसायी कृष्णा एग्रीकल्चर वर्क्स, विश्वकर्मानगर, हिम्मतनगर, साबरकंठा-383001, गुजरात को इस अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए भारतीय स्टेट बैंक के अहमदाबाद स्थानीय बोर्ड में सदस्य के रूप में नामित करती है।

[फा० सं. 8/2/2003-बी०ओ०-1]

रमेश चन्द, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 25th February, 2004

S.O. 518.— In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1995 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominates Shri Rasiklal Nanchanddas Shah, Businessman, Krishna Agriculture Works, Vishwakarmanager, Himatnagar, Sabarkantha-383001 Gujarat to be a member of the Ahmedabad Local Board of the State Bank of India for a period of three years from the date of notification.

[F. No. 8/2/2003-B.O.-I]

RAMESH CHAND, Under Secy.

(स्वास्थ्य और परिवार कल्याण मंत्रालय)

नई दिल्ली, 24 फरवरी, 2004

का०आ० 519.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में स्वास्थ्य और परिवार कल्याण मंत्रालय के अंतर्गत आने वाले निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

1. सीरम विज्ञानी संस्थान,
   भारत सरकार,
   3, कीड स्ट्रीट, कोलकाता-700016.
2. अपर निदेशक का कार्यालय,
   शालीमार को-ओपरेटिव हाउसिंग सोसायटी,
   आश्रम रोड़, अहमदाबाद-380009.
3. कलावती सरण बाल चिकित्सालय, नई दिल्ली-110001.

[सं. ई. 11012/1/94-रा.भा. कार्या. (हिन्दी-I)]

अवतार सिंह चौहान, मुख्य लेखा नियंत्रक

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 24th February, 2004

S.O. 519.— In pursuance of sub-rule (4) of Rule 10 of the Official language (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices under the Ministry of Health & Family Welfare, whereof 80 per cent staff have acquired working knowledge of Hindi :—

1. Institute of Serology, Govt. of India,
   3, Kid Street, Kolkata- 700016.
2. Office of the Additional Director,
   Central Government Health Scheme,
   Shalimar Co-op. Housing Society,
   Ashram Road, Ahmedabad-380009.
3. Kalawati Saran Children's Hospital,
   New Delhi-110001.

[No. E. 11012/1/94-O.L.I. (Hindi-I)]

AVTAR SINGH CHAUHAN, Chief Controller of Accounts.

(स्वास्थ्य विभाग)

नई दिल्ली, 25 फरवरी, 2004

का०आ० 520.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा-3 की उप-धारा (1) के खंड (ख) के अनुसरण में, डा. जे. एन. सोनी, चिकित्सा संकाय, जी. आर. मेडिकल कालेज, ग्वालियर को जीवाजी विश्वविद्यालय ग्वालियर की कोर्ट द्वारा इस अधिसूचना के जारी होने की तिथि से भारतीय आयुर्विज्ञान परिषद् का सदस्य निर्वाचित किया गया है।

अत: अब, उक्त अधिनियम की धारा 3 की उप-धारा (1) के उपबंध के अनुसरण में, केन्द्र सरकार तत्कालीन स्वास्थ्य मंत्रालय, भारत सरकार की दिनांक 9 जनवरी, 1960 की अधिसूचना सं. का.आ. संख्या 138 में एतद्द्वारा निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में "धारा 3 की उप-धारा (1) के खण्ड (ख) के अंतर्गत निर्वाचित" शीर्षक के अंतर्गत क्रम संख्या 31 तथा उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या तथा प्रविष्टियां प्रतिस्थापित की जाएंगी, अर्थात् :—

"31. डॉ. जे. एन. सोनी, प्रोफेसर, न्यायिक (फोरेन्सिक) विभाग, जी. आर. मेडिकल कालेज, ग्वालियर (मध्य प्रदेश)	जीवाजी विश्वविद्यालय"

[सं. वी-11013/2/2003-एम.ई. (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

पाद टिप्पण : मूल अधिसूचना भारत के राजपत्र में दिनांक 9-1-1960 की का. आ. संख्या 138 के तहत प्रकाशित हुई थी।

(Department of Health)

New Delhi, the 25th February, 2004

S.O. 520.— Whereas in pursuance of clause (b) of Sub-section (1) of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956) Dr. J.N. Sony, Medical Faculty of G.R. Medical College, Gwalior has been elected by the Court of the Jiwaji University, Gwalior to be a member of the Medical Council of India with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of Sub-section (1) of Section 3 of the said Act, the Central Government here by makes the following further amendment in the Notification of the Government of India in the then Ministry of Health number S.O. 138, dated the 9th January, 1960, namely :—

In the said Notification, under the heading, "Elected under clause (b) of Sub-section (1) of Section 3", for serial number 31 and the entries relating thereto the following entries shall be substituted, namely :—

"31. Dr. J.N. Sony, Prof. in Forensic Deptt., G.R. Medical College, Gwalior (Madhya Pradesh)	Jiwaji University"

[No. V-11013/2/2003-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

Foot note: The Principal notification was published in the Gazette of India, *vide* S.O. 138 dated 9-1-1960.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(खाद्य और सार्वजनिक वितरण विभाग)

नई दिल्ली, 19 फरवरी, 2004

का०आ० 521.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन भारतीय खाद्य निगम के निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है:—

1.	2.	3.
भारतीय खाद्य निगम, जिला कार्यालय, गाजीपुर (यू.पी.)	भारतीय खाद्य निगम, अन्नागार, बलिया (यू.पी.)	भारतीय खाद्य निगम जिला कार्यालय, आजमगढ़ (यू.पी.)

[सं. ई. 11011/1/2001-हिन्दी]

अनिता चौधरी, संयुक्त सचिव

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Food and Public Distribution)

New Delhi, the 19th February, 2004

S. O. 521.— In pursuance of Sub-rule (4) of rule 10 of the Official Language (use for official purpose of the Union) Rules, 1976 of the Central Government hereby notifies the following offices of Food Corporation of India under the administrative control of the Ministry of Consumer Affairs, Food & Public Distribution (Deptt. of Food & Public Distribution), where of more than 80% of staff have acquired the working knowledge of Hindi :—

1. Food Corporation of India, District office, Gazipur (U.P.)	2. Food Corporation of India, F.S.D., Balia (U.P.)	3. Food Corporation of India, District Office, Azamgarh (U.P.)

[No. E. 11011/1/2001-Hindi]

ANITA CHAUDHARY. Jt. Secy.

संचार एवं सूचना प्रौद्योगिकी मंत्रालय

(डाक विभाग)

(डाक जीवन बीमा निदेशालय)

नई दिल्ली, 9 जनवरी, 2004

का०आ० 522.—राष्ट्रपति इस निदेशालय की अधिसूचना सं. 5-1/94-पीएलआई दिनांक 15 मार्च, 1995 (ग्रामीण डाक जीवन बीमा को प्रयोग में लाने के लिए) के पैरा 6 में संशोधन करते हैं, जो निम्नलिखित के अनुसार है :—

"इस स्कीम के लिए ऐसा व्यक्ति पात्र होगा जिसकी आयु उसकी अगली जन्म तिथि के दिन 19 वर्षों से कम और 55 वर्षों से अधिक नहीं हो (एईए पालिसियों के मामले में 40 वर्ष)।"

[सं. 5-1/94-एलआई]

बी. पती, अपर महाप्रबंधक (डाक जीवन बीमा)

MINISTRY OF COMMUNICATIONS AND IT

(Department of Posts)

(Directorate of PLI)

New Delhi, the 9th January, 2004

S.O. 522.— President is pleased to amend the Para 6 of this Directorate notification No. 5-1-94-PLI dated 15 March, 1995 (for introduction of Rural Postal Life Insurance) as under :—

"A person who is not less than 19 years and not more than 55 years (40 years in case of AEA policies) on his/her next birth day shall be eligible for this scheme."

[No 5-1/94-LI]

V. PATI, Addl. General Manager (PLI)

शुद्धि-पत्र

नई दिल्ली, 25 फरवरी, 2004

का०आ० 523.—भारत के राजपत्र के भाग-II खण्ड 3 (ii) दिनांक 11-9-1993 में प्रकाशित, डाक विभाग में संपदा अधिकारी के तौर पर कार्य करने के लिए नियुक्त केन्द्रीय सरकार के राजपत्रित अधिकारियों के संबंध में दिनांक 28-1-1992 के निदेशालय के समसंख्यक कार्यालय पत्र के अंतर्गत जारी अधिसूचना में, क्रम. सं. 16 अर्थात् राजस्थान सर्किल में निम्नलिखित परिवर्तन किए जाएं :—

क्र. सं.	सर्किल का नाम	अधिकारी का पदनाम	प्रादेशिक क्षेत्राधिकार	टिप्पणी
1.	राजस्थान सर्किल	सहायक निदेशक, डाक सेवाएं, पोस्टमास्टर जनरल का कार्यालय, राजस्थान, दक्षिण क्षेत्र, अजमेर	राजस्थान, दक्षिणी क्षेत्र	राजस्थान सर्किल में निम्नलिखित टिप्पणी को हटा दिया गया है :— "सहायक पोस्टमास्टर जनरल पोस्टमास्टर जनरल का कार्यालय, राजस्थान (पूर्व) क्षेत्र जयपुर।"

[सं. 2-119/90-भवन]

राजेन्द्र कुमार, सहायक महानिदेशक (भवन)

CORRIGENDUM

New Delhi, the 25th February, 2004

S.O. 523.— In the notification issued under the Directorate Office letter of even number dated 28-1-1992 in respect of the Central Government Gazetted Officers appointed to act as Estate Officers in the Department of Posts, Published in the Gazette of India in Part-II Section 3 (ii) dated 11-9-1993, the following changes may be made against serial No. 16 *i.e* Rajasthan Circle :—

S.No.	Name of Circle	Designation of the Officer	Territorial Jurisdiction	Remarks
1.	Rajasthan Circle	Assistant Director Postal Services, O/o Postmaster General Rajasthan Southern Region, Ajmer	Rajasthan Southern Region	Under-noted entry against Rajasthan Circle is deleted :— "Assistant Post-master General, O/o Postmaster General, Rajasthan (Eastern) Region, Jaipur."

[No. 2-119/90-Bldg.]

RAJINDER KUMAR, Asstt. Director General (Bldgs.)

पर्यावरण एवं वन मंत्रालय

नई दिल्ली, 12 फरवरी, 2004

का० आ० 524.—राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में केन्द्रीय सरकार एतद्द्वारा पर्यावरण एवं वन मंत्रालय के अधीन आचंलिक कार्यालय (मध्य) केन्द्रीय प्रदूषण बोर्ड, तृतीय तल, कृष्णा पैलेस ई-3/15, अरेरा कालोनी, भोपाल-462016, जिसके 80 प्रतिशत कर्मचारी वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[सं. ई-110011/2/2003-रा.भा.(का.)]

बी. एन. हेम्ब्रम, संयुक्त निदेशक (रा.भा.)

MINISTRY OF ENVIRONMENT AND FORESTS

New Delhi, the 12th February, 2004

S. O. 524.—In pursuance of sub-Rule (4) of Rule 10 of the Official Languages (use for offieial purpose of the union) Rule 1976, the Central Government hereby notifies the Regional Office (Madhaya) Central Pollution Control Board, E-Third Floor, E. 3/15, Arera Colony Bhopal-462016 under the administrative control of the Ministry of Environment & Forests, the 80% staff whereof have acquired a working knowledge of Hindi.

[No. E-110011/2/2003/OL(I)]

B. N. HAMBREM, Jt. Director(O.L.)

कृषि मंत्रालय

(कृषि और सहकारिता विभाग)

नई दिल्ली, 25 फरवरी, 2004

का० आ० 525.—केन्द्रीय सरकार बहु-राज्य सहकारी समिति अधिनियम, 2002 (2002 का 39) की धारा 4 की उप-धारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारत सरकार की दिनांक 22 जुलाई, 2003 की अधिसूचना सं. एल-11012/2/2003-एल एंड एम का अधिक्रमण करते हुए एतद्द्वारा कृषि मंत्रालय, कृषि एवं सहकारिता विभाग में संयुक्त सचिव (ऋण एवं सहकारिता), श्री सतीश चन्द्र को आगामी आदेशों तक के लिए केन्द्रीय पंजीयक, सहकारी समितियां के पद पर नियुक्त करती है।

[सं. एल-11012/2/2003-एल. एंड एम.]

पी. विजय कुमार, अवर सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture and Cooperation)

New Delhi, the 25th February, 2004

S. O. 525.—In exercise of the powers conferred vide sub-section (i) of Section 4 of the Multi-State Co-operative Societies Act, 2002 (39 of 2002) and in supersession of the Government of India Notification No. L-11012/2/2003-L&M dated 22nd July, 2003, the Central Government hereby appoints Shri Satish Chander, Joint Secretary (Credit and Cooperation) in the Ministry of Agriculture, Department of Agriculture and Cooperation, as the Central Registrar of Co-operative Societies till further orders. (Hindi Version will follow)

[No. L-11012/2/2003-L & M]

P. VIJAY KUMAR, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 26 फरवरी, 2004

का० आ० 526.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकारी का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 2054 तारीख 21 जुलाई 2003 द्वारा गुजरात राज्य में अपरिष्कृत तेल का परिवहन के लिए विरमगाम से कोयाली तक पाइपलाइन बिछाने के प्रयोजन के लिए उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 18 अगस्त, 2003 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अत:, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकारी इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा;

अनुसूची

तालुका : पेटलाद जिला : आणंद राज्य : गुजरात

गाँव का नाम	सर्वे संख्या	उप-खण्ड संख्या	क्षेत्रफल		
			हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6
संजया	417		0	00	44
	416		0	02	24

[फा. सं. आर. 25011/3/2002-ओ.आर.-1]

रेणुका कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 26th February, 2004

S. O. 526.—Whereas by the notification of the Government of India, in the Ministry of Petroleum and Natural Gas number S. O. 2054 dated 21st July 2003 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam to Koyali in the State of Gujarat, pipeline should be laid by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam—Koyali, section of Salaya—Mathura Pipeline System;

And whereas, copies of the said Gazette notification were made available to the public on the 18th August 2003;

And whereas, the competent authority has, under sub-section (1) of Section 6 of the said Act, has submitted his report to the Central Government;

And whereas the Central Government has after considering the said report is satisfied that the right of user in the land specified in the the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification are hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the land shall, instead of vesting in the Central Government, vest, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Taluka : Petlad District : ANAND State : GUJARAT

Name of the Village	Survey No.	Sub-Division No.	Area		
			Hectare	Are	Sq. Mtr.
1	2	3	4	5	6
SANJAYA	417		0	00	44
	416		0	02	24

[F. No. R. 25011/3/2002-OR-I]

RENUKA KUMAR, Under Secy.

नई दिल्ली, 26 फरवरी, 2004

का० आ० 527.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकारी का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 2051 तारीख 21 जुलाई, 2003 द्वारा गुजरात राज्य में अपरिष्कृत तेल का परिवहन के लिए विरमगाम से कोयाली तक पाइपलाइन बिछाने के प्रयोजन के लिए उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 18 अगस्त, 2003 को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तालुका : आंकलाव जिल्ला : आणंद राज्य : गुजरात

गाँव का नाम	सर्वे संख्या	उप-खण्ड संख्या	क्षेत्रफल		
			हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6
भेटासी तणपद	159		0	02	84
आमरोल	389		0	03	73
आसोदर	1092		0	00	24
	1340		0	00	80
	1343		0	03	41
	1408		0	01	87

[फा. सं. आर. 25011/3/2002-ओ.आर.-I]

रेणुका कुमार, अवर सचिव

New Delhi, the 26th February, 2004

S. O. 527.—Whereas by the notification of the Government of India, in the Ministry of Petroleum and Natural Gas number S. O. 2051 dated 21st July, 2003 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam to Koyali in the State of Gujarat, a pipeline should be laid by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam—Koyali, section of Salaya—Mathura Pipeline System;

And whereas copies of the said Gazette notification were made available to the public on the 18th August, 2003;

And whereas the competent authority has, under Sub-section (1) of Section 6 of the said Act, has submitted his report to the Central Government;

And whereas the Central Government has after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification are hereby acquired;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the land shall, instead of vesting in the Central Government, vest, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Taluka : ANKLAV District : ANAND State : GUJARAT

Name of the Village	Survey No.	Sub-Division No.	Area		
			Hectare	Are	Sq. Mtr.
1	2	3	4	5	6
BHETASI TALPAD	159		0	02	84
AMROL	389		0	03	73
ASODAR	1092		0	00	24
	1340		0	00	80
	1343		0	03	41
	1408		0	01	87

[F. No. R. 25011/3/2002-OR-I]

RENUKA KUMAR, Under Secy.

नई दिल्ली, 26 फरवरी, 2004

का० आ० 528.—केन्द्रीय सरकार, को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में विरमगाम से कोयली तक पेट्रोलियम (अपरिष्कृत) के परिवहन के लिए, इंडियन ऑयल कॉरपोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को यह प्रतीत होता है कि ऐसी पाइपलाइनें बिछाने के प्रयोजन के लिए इस अधिसूचना से संलग्न अनुसूची में वर्णित भूमि में उपयोग के अधिकार का अर्जन करना आवश्यक है;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर उसमें उपयोग के अधिकार का अर्जन करने या भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर. एम. पंड्या, सक्षम प्राधिकारी, इंडियन ऑयल कॉरपोरेशन लिमिटेड, (पाइपलाइन प्रभाग) पो. बा. सं. 4, डाकघर विरगाम, जिला अहमदाबाद, गुजरात-382150 को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तालुका : पेटलाद जिला : आणंद राज्य : गुजरात

गाँव का नाम	सर्वे संख्या	उप-खण्ड संख्या	क्षेत्रफल		
			हेक्टर	एयर	वर्ग मीटर
बामरोली	857		0	01	48
संजया	414		0	02	18
	420		0	09	01
रावली	497		0	01	92

[फा. सं. आर. 25011/3/2002-ओ.आर.-I]

रेणुका कुमार, अवर सचिव

New Delhi, the 26th February, 2004

S. O. 528.—Whereas its appears to the Government that it is necessary in the public interst, that for the transportation of petroleum (crude) from Viramgam to Koyli in the State of Gujarat, a pipeline should be laid by the Indian Oil Corporation Ltd.

And, whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of this notification as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri R. M. Pandya, Competent Authority, Indian Oil Corporation Limited, (Pipeline Division), Post Box No. 4, Post Office Viramgam, District Ahmedabad, Gujarat-382150.

SCHEDULE

Taluka : PETLAD District : ANAND State : GUJARAT

Name of the Village	Survey No.	Sub-Division No.	Area		
			Hectare	Are	Sq. Mtr.
BAMROLI	857		0	01	48
SANJAYA	414		0	02	18
	420		0	09	01
RAVLI	497		0	01	92

[F. No. R. 25011/3/2002-OR-I]

RENUKA KUMAR, Under Secy.

नई दिल्ली, 26 फरवरी, 2004

का० आ० 529.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 1090 तारीख 22 मार्च, 2002 द्वारा गुजरात राज्य में अपरिष्कृत तेल का परिवहन के लिए विरमगाम से कोयाली तक पाइपलाइन बिछाने के प्रयोजन के लिए उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 18 अप्रैल, 2002 को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तालुका : महेमदाबाद जिला : खेडा राज्य : गुजरात

गाँव का नाम	सर्वे संख्या	उप-खण्ड संख्या	क्षेत्रफल		
			हेक्टर	एयर	वर्ग मीटर
वासणाखुर्द	3		0	09	19

[फा. सं. आर. 25011/4/2002-ओ.आर.-I]

रेणुका कुमार, अवर सचिव

New Delhi, the 26th February, 2004

S. O. 529.—Whereas by the notification of the Government of India, in the Ministry of Petroleum and Natural Gas number S. O. 1090 dated 22-3-2002 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam to Koyali in the State of Gujarat, a pipeline should be laid by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam—Koyali, Section of Salaya—Mathura Pipeline System;

And whereas copies of the said Gazette notification were made available to the public on the 18th April, 2002;

And whereas the competent authority has, under Sub-section (1) of Section 6 of the said Act, has submitted his report to the Central Government;

And whereas, the Central Government has after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification are hereby acquired;

And further, in exercise of powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the land shall, instead of vesting in the Central Government, vest, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Taluka : MEHMEDABAD District : KHEDA State : GUJARAT

Name of the Village	Survey No.	Sub-Division No.	Area		
			Hectare	Are	Sq. Mtr.
VASNA KHURD	3		0	09	19

[F. No. R-25011/4/2002-OR-I]

RENUKA KUMAR, Under Secy.

नई दिल्ली, 26 फरवरी, 2004

का० आ० 530.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 2055 तारीख 21 जुलाई 2003 द्वारा गुजरात राज्य में अपरिष्कृत तेल का परिवहन के लिए विरमगाम से कोयाली तक पाइपलाइन बिछाने के प्रयोजन के लिए उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 18 अगस्त, 2003 को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा;

अनुसूची

तालुका : बोरसद	जिला : आणंद		राज्य : गुजरात		
			क्षेत्रफल		
गाँव का नाम	सर्वे संख्या	उप-खण्ड संख्या	हेक्टर	एयर	वर्ग मीटर
नापा तलपद	159		0	01	49
	158	2	0	01	73
	158	4	0	04	97
	199		0	00	95

[फा. सं. आर-25011/7/2002-ओ.आर.-I]

रेणुका कुमार, अवर सचिव

New Delhi, the 26th February, 2004

S. O. 530.—Whereas by the notification of the Government of India, in the Ministry of Petroleum and Natural Gas number S. O. 2055 dated 21st July, 2003 issued under Sub-section (I) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam to Koyali in the State of Gujarat, a pipeline should be laid by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam---Koyali, Section of Salaya—Mathura Pipeline System;

And whereas, copies of the said Gazette notification were made available to the public on the 18th April, 2003;

And whereas, the competent authority has, under Sub-section (1) of Section 6 of the said Act, has submitted his report to the Central Government;

And whereas, the Central Government has after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification are hereby acquired;

And further, in exercise of powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the land shall, instead of vesting in the Central Government, vest, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Taluka : BORSAD	District : ANAND		State : GUJARAT		
			Area		
Name of the Village	Survey No.	Sub-Division No.	Hectare	Are	Sq. Mtr.
NAPA TALPAD	159		0	01	49
	158	2	0	01	73
	158	4	0	04	97
	199		0	00	95

[F. No. R-25011/7/2002-OR-I]

RENUKA KUMAR, Under Secy.

परमाणु ऊर्जा विभाग

(पावर अनुभाग)

मुम्बई, 23 फरवरी, 2004

का. आ. 531.— दिनांक 11-07-1996 के एस ओ सं. 513 (ई) में आंशिक संशोधन करते हुए तथा विद्युत (आपूर्ति) अधिनियम, 1948 (1948 का 54) की धारा 43ए की उपधारा (2) के साथ पठित परमाणु ऊर्जा अधिनियम, 1962 (1962 का 33) की धारा 22 के उपधारा (1) के भाग (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एमएपीएस-2 के संपूर्ण कूलेंट चैनल प्रतिस्थापन की पूर्णता के परिणामस्वरूप मद्रास परमाणु बिजलीघर की यूनिट-2 के निम्नलिखित टैरिफ पैरामीटरों को एतद्द्वारा संशोधित करती है :

	विद्यमान	तक संशोधित
आक्सीलरी खपत	14%	11.5%
भारी पानी इंवेन्ट्री	250 टन	300 टन
यूनिट की क्षमता	170 MWe	220MWe

उपर्युक्त अधिसूचना के अन्य मानक अपरिवर्तित रहेंगे।

[सं. 1/2(2)/2003-विद्युत/167]

शोभा देवी एन, अवर सचिव

DEPARTMENT OF ATOMIC ENERGY

(Power Section)

Mumbai, the 23rd February, 2004

S.O. 531.—In partial modification of the Notification published vide S.O. No. 513(E) dated 11-7-1996 and in exercise of the powers conferred, by clause (b) of Sub-section (1) of Section 22 of the Atomic Energy Act, 1962 (33 of 1962) read with sub-section (2) of Section 43 A of the Electricity (Supply) Act, 1948 (54 of 1948) the Central Government hereby modify the following tariff parameters in the case of Madras Atomic Power Station Unit-2 as a result of the completion of Enmasse Coolant Channel Replacement of MAPS-2 :

		Existing	Amended to
Auxiliary consumption	:	14%	11.5%
Heavy water inventory	:	250 tonnes	300 tonnes
Capacity of the Unit	:	170 MWe	220 MWe

Other norms of the above Notification remain unchanged.

[No. 1/2(2)/2003-Power/167]

SOBHA DEVI N, Under Secy.

श्रम मंत्रालय

आदेश

नई दिल्ली, 28 जनवरी, 2004

का. आ. 532.—जबकि केन्द्रीय सरकार का विचार है कि भारतीय खाद्य निगम के प्रबंधन एवं उनके कर्मकारों के बीच औद्योगिक विवाद विद्यमान हैं ;

और जबकि केन्द्रीय सरकार का मत है कि उपरोक्त विवाद में राष्ट्रीय महत्व का प्रश्न निहित है तथा इसका न्याय-निर्णयन एक राष्ट्रीय औद्योगिक न्यायाधिकरण द्वारा होना चाहिए।

और जबकि केन्द्रीय सरकार ने औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7ख द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्रम मंत्रालय के दिनांक 15-12-1998 के आदेश सं. एल-22012/439/95 आई आर (सी-II) के द्वारा एक राष्ट्रीय औद्योगिक न्यायाधिकरण स्थापित किया जिसका मुख्यालय कलकत्ता में रखा गया और न्यायमूर्ति श्री ए. के. चक्रवर्ती को इसका पीठासीन अधिकारी नियुक्त किया गया तथा उक्त अधिनियम की धारा-10 की उप-धारा (1क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त औद्योगिक विवाद को न्याय-निर्णयन हेतु उपरोक्त राष्ट्रीय औद्योगिक न्यायाधिकरण को सौंपा गया।

और जबकि न्यायमूर्ति श्री ए. के. चक्रवर्ती ने दिनांक 31-12-1999 को उपरोक्त राष्ट्रीय औद्योगिक न्यायाधिकरण का पद भार त्याग दिया।

और जबकि केन्द्रीय सरकार ने दिनांक 14-3-2002 के आदेश द्वारा राष्ट्रीय न्यायाधिकरण पुनः स्थापित किया तथा न्यायमूर्ति श्री बी. पी. शर्मा को इसका पीठासीन अधिकारी नियुक्त किया।

और जबकि न्यायमूर्ति श्री बी. पी. शर्मा ने दिनांक 23-1-2003 को उक्त राष्ट्रीय औद्योगिक न्यायाधिकरण का पद भार छोड़ दिया।

अतः अब एक राष्ट्रीय औद्योगिक न्यायाधिकरण की स्थापना की जाती है जिसका मुख्यालय कोलकाता होगा और जिसके पीठासीन अधिकारी श्री हृषिकेश बनर्जी होंगे तथा उपर्युक्त विवाद को न्याय-निर्णयन के लिए राष्ट्रीय औद्योगिक न्यायाधिकरण को इस निर्देश के साथ संदर्भित किया जाता है कि न्यायमूर्ति श्री हृषिकेश बनर्जी इस मामले में कानून के अनुसार उस स्तर से आगे कार्रवाई करेंगे जहां से न्यायमूर्ति श्री बी. पी. शर्मा ने इसे छोड़ा था।

[सं. एल.-22012/439/95-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

MINISTRY OF LABOUR

ORDER

New Delhi, the 28th January, 2004

S.O. 532.—Whereas the Central Government is of the opinion that an industrial dispute existed between the management of FCI and their workmen;

And whereas the Central Government is of the opinion that the above dispute involved a question of national importance and should be adjudicated by a national industrial tribunal.

And whereas the Central Government in exercise of the powers conferred by Section 7 B of the I.D. Act, 1947 (14 of 1947) constituted a National Industrial Tribunal vide Ministry of Labour Order No. L-22012/439/95-IR(C-II) dated 15-12-1998 with headquarters at Calcutta and appointed Justice Shri A.K. Chakraborty as its Presiding Officer and in exercise of the powers conferred by Sub-section (1A) of Section 10 of the said Act, referred the said industrial dispute to the said National Industrial Tribunal for adjudication.

And whereas Justice Shri A.K. Chakraborty relinquished charge of the above said National Industrial Tribunal on 31-12-1999:

And whereas Central Govt. vide order dated 14-3-2002 reconstituted the National Tribunal and appointed Justice Shri B.P. Sharma as its Presiding Officer.

And whereas Justice Shri B.P. Sharma relinquished the charge of the said National Industrial Tribunal on 23-1-2003.

Now, therefore, a national industrial tribunal is constituted with headquarters at Kolkata with Justice Shri Hrishikesh Banerji as its Presiding Officer and the said above dispute is referred to the said National Industrial Tribunal for adjudication with the direction that Justice Shri Hrishikesh Banerji shall proceed in the matter from the stage at which it was left by Justice Shri B.P. Sharma and dispose of the same according to law.

[No. L-22012/439/95-IR(C-II)]

N. P. KESAVAN, Desk Officer

नई दिल्ली, 9 फरवरी, 2004

का. आ. 533.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट ऑथोरिटी ऑफ इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, नई दिल्ली के पंचाट (संदर्भ संख्या 78/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-2-2004 को प्राप्त हुआ था।

[सं. एल-11012/1/96-आई.आर. (विविध)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 9th February, 2004

S. O. 533.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 78/96) of the Central Government Industrial Tribunal-cum-Labour Court-2, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workmen, which was received by the Central Government on 3-02-2004.

[No. L-11012/1/96-IR(M)]

B.M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding officer : R.N. RAI

I.D. No. 78/96

Jagdish Yadav

Versus

International Airport Authority of India

By letter dt. 12-08-1996, the Ministry of Labour referred the point hereunder for Award. The point referred to runs as follows:—

> "Whether the action of the management of International Airport Authority of India in imposing the penalty of stoppage of three increments with cumulative effect and stoppage of overtime for the next six months of Shri Jagdish Yadav, Driver *(MT)* vide order No. AAD/PERS/CONF/JY/DVR/199/129 dated 27-7-1992 is justified? If not, to what relief the workman is entitled?"

The claimant has filed statement of claims. In his statement of claim, he has averred that he is an employee of the Airports Authority of India, IGI Airport, New Delhi. He has moved an application before the Labour Commissioner but the matter was not settled so the matter was referred to the Tribunal. He was posted as Driver in the month of November/December, 1991. The management conducted the enquiry and levelled the false charges against him and did not follow the principles of natural justice and he was given no opportunity to cross-examine the witnesses and he was also not given the opportunity to prove his own evidence. It is admitted in the statement of claim that he was the driver of "Follow Me" cars and he was only on that day, he went there with certain purpose and he wanted to telephone to some person but he was prevented by the higher authorities. He said that being an employee he has every right to use the telephone but the authorities were enraged and framed frivolous charges against him. The first charge is that he was found under the influence of Alcohol while on duty. The second charge is of wilful insubordination and disobedience. He was absent from the appointed place of work without permission. He threatened the officials of dire consequences. He acted in a manner prejudicial to the interests of the authorities. His act was subversive of discipline and of good behaviour. The commissioning of his acts unbecoming of an employee. It has been further stated in the statement of claim that six persons were examined. During enquiry, the Airport Manager and Medical Officer were examined. After conclusion of the enquiry, he was found guilty of the charges framed against him and consequently his three increments were withheld with cumulative effect and he was not permitted to get overtime for 6 months. The opposite parties have filed the

written arguments and they have denied the allegations of the plaint. Their submission is that the matter is not within the jurisdiction of the Power of Industrial Tribunal. A proper enquiry was held against him and all the witnesses were examined and thereafter he was himself examined. He did not want to examine any other witness so, he enquiry officer punished him.

The workman has filed the rejoinder to the written statement and he has stated that under a conspiracy, the enquiry was held. He was not on duty on that date. He has no keys with him. He was given no opportunity to produce the witnesses from the side of the union. Though the union has moved an application before the Labour Commissioner for reconciliation.

Heard the arguments of both the sides and perused the written arguments annexed with the record. Now the substantial question is whether the charges framed against him have been fully proved by the statement of witnesses. So far as the first charge is concerned regarding the drunken, no medical examination has been held. So it is by saying that he was under the influence of Alcohol it could not be proved/established that he had taken Alcohol. The second charge is regarding insubordination and disobedience. From the enquiry, it is revealed that he has two keys of the vehicle and the keys were demanded but he did not give the keys and ran away so he was not medically examined regarding his being in a drunken condition. The taking of alcohol of the workman has not been proved by the enquiry officer itself as no medical examination has been conducted where there were six persons at the place and he would have been arrested. The second charge regarding taking the keys is also not proved as one witness has said that the keys were later on found in the drawer. If he ran away from the place of occurrence, it is next to impossible that he has keys with him. One witness has also stated that his name was against in the roster, which establishes beyond any iota of doubt that he was not on duty that day so the question of taking the keys is also not proved because the keys of the vehicle could not be given to a man who is not on duty. Thus, the charge that he has two keys with him is also not proved against him. So far as charge of using abusive language is concerned, there is no mentioned of such words which constitute abusive language so the charge of abusive language is not proved and the charge of disobediency for not giving the key after demand is not proved as the workman was not on duty that day, he cannot be said to have any key with him.

Since it is admitted that he was trying to telephone to some of the person and in the meantime, he was intervened by some officials he would have said that being an employee, in urgent cases, he is also authorized to use the telephone and only this matter enraged the authorities and they framed charges only for the simple altercation between the workman and the official or the Manager present there. On there being all the witnesses, then he would have been caught red handed there and they would have sent for medical examination regarding his alcohol.

The learned counsel for the Airport Authority said that the Airport is a valuable place and he has the keys with him and he ran away with the keys. That was a great charge against him but this charge has not been proved by the witnesses who have been examined in the enquiry because later on the keys were found in the drawer and his name was not on the rosters. The learned counsel for the workman argued that he has been given an opportunity to adduced his own evidence even if it is presumed that principles of natural justice have been followed in the enquiry and enquiry was proper, even then the charges framed against him has not been proved by the evidence of the witnesses so there is no question of taking further evidence in the court.

The only charge that has been proved against him is regarding the telephone to some person being not on duty and whenever he was intervened, it is but natural that he would have resisted. His call might be urgent.

Even if an enquiry is complete, and all the principles of natural justice have been followed, the charges framed ought to have been proved by the witnesses but I have pointed out earlier, that out of 7 charges, only one charge has been proved. He might be a little disobedient as he was stopped from ringing to his relation or friend that would have been enraged on intervention. For such simple thing the workman should not have been so heavily punished. In case an enquiry is held in enquiry itself, all the charges ought to have been proved then only the punishment can been awarded if the major charges are not proved, major punishment cannot be given to him.

In view of the above discussions, I am of the confirmed view that imposing the penalty of stoppage of three increments with cumulative effect is unwarranted. There is no provision of stoppage of overtime for the next six months. As such, for the simple disobedience, if one increment is stopped that would be sufficient as the workman applicant has not been disobedient after filing of the ID and prior to that 27-7-1992.

In view of the foregoing, the workman/applicant should be punished with the penalty of withholding of one increment only and he should be given overtime and he is also found entitled to receive all the wages which result by imposing the penalty of stoppage of three increments with cumulative effect.

R.N. RAI, Presiding Officer

नई दिल्ली, 10 फरवरी, 2004

का. आ. 534.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एमटीएनएल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-II

नई दिल्ली के पंचाट (सदर्भ संख्या 138/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-2-04 को प्राप्त हुआ था।

[सं० एल-40012/50/90-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 10th February, 2004

S. O. 534.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 138/90) of the Central Government Industrial Tribunal-cum-Labour Court No. II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MNTL and their workman, which was received by the Central Government on 10-02-04.

[No. L-40012/50/90-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

PRESIDING OFFICER : R.N. RAI

I.D.NO. 138 OF 1990

SHIV DUTT

V/s.

M.T.N.L.

AWARD

The Ministry of Labour vide its letter dated 20/25-11-1990 has referred the following point for adjudication. The points referred to runs is under :—

> "Whether the action of the MTNL, New Delhi in terminating the services of Shri Shiv Dutt w.e.f. 22.12.1987 is justified? If not, to what relief the workman is entitled to ?"

The claimant has filed the statement of claims. It is stated in the claim that the workman joined employment of M.T.N.L. w.e.f. 1-10-1981 as Beldar on daily wages. His attendance was marked in the office of MTNL. He has been disallowed duties and unemployment has been enforced upon him w.e.f. 22-12-1987. The cause of termination of his service is sickness from 1-8-1987 to 11-12-1987. He was undergoing medical treatment in Dr. Gupta Nursing Home. On being recovered, he went for joining service but he was not allowed to join duty which is wholly illegal, bad, unjust and malafide.

It is further stated that employing persons took regular nature of job but they were keeping him on casual/ daily wages/muster roll and lesser remuneration was being paid. His services were permanent without giving any notice or without conducting any enquiry he was dismissed. Juniors to him have been retained in service. The termination is violative of Section 25 F, G & H of the Industrial Disputes Act, 1947 read with Rules 76 and 77 of the Industrial Dispute Rules, 1957. He is unemployed since December, 1987.

On 29-10-1988, he served demand notice by Regd. Post upon the Management but it was rejected. He filed claim before the Asstt. Labour Commissioner but no conclusion came. Thereaft he filed this ID case.

The Management has filed written statement.

It has been stated in the written statement that the workman has voluntarily abandoned the job as he was continuously absent without any termination or intimation from 14-4-1986. Suddenly he wanted to come back in service. Since he has abandoned his job, no question of taking him in service arises. He has been habitual defaulter. He was a daily rated Mazdoor. He was engaged by the Management of the erstwhile Delhi Telephones w.e.f. 1-10-1981. He was a habitual absentee. He was absent from duty from 1-10-82 to 31-10-1982, 1-1-1984 to 31-1-1984, 10-02-1984 to 31-5-1984, 8-8-85 to 31-12-1985, 1-1-1986 to 31-1-1986 and 14-4-1986 onwards. On account of such an aptitude, the claim filed by him must fail. The claim has been filed at a very delayed stage. Two sets of medical and fitness certificates have been annexed with the record. He was declared fit to resume duty on 1-3-1987. The medical certificates have been dubiously obtained. The person who is fit for duty on 1-3-1987 cannot sit idle. The medical certificate has been obtained from a private nursing home. He ought to have proved that he was really ill. In view of his voluntarily abandonment of work, his services were terminated.

The workman has filed rejoinder. He has stated that he was continuously working from 1-10-1981 to 22-12-1987. Heard the arguments from both the sides. Perused evidence and documents filed on the record. It has been admitted to both the parties that the workman worked in 1981 for 2 months, 1982 for 9 months, 1983 for 12 months, 1984 for 4 months, 1985 for 8 months, in 1986 for 4 months. The learned counsel for the workman argued that he was posted at the post of Beldar. He fell ill and he has been disallowed duties from 22-12-1987 . It has been admitted in the claim that he was a Beldar on daily wages w.e.f. 1-10-1981. His attendance was also marked in the MTNL office. He was sick from 1-8-1987 to 21-12-1987. and was undergoing medical treatment in Dr. Gupta Nursing Home. After recovery, he moved an application for duty but he was not allowed. The substantial question is whether he was a Beldar on daily wages or he was a seasonal worker. So far as the question of Beldar on daily wages is concerned, he has performed duties for a particular period for example 1-10-1981 to 31-12-1981 and thereafter from 1-1-1982 to 31-09-1982, 1-11-1982 to 31-12-1982, 1-2-1984 to 8-2-1984, in 1981 he was worked only for two months , in 1982 he has worked for 9 months w.e.f. 1-1-1982 to 31-09-1982. The period is regular in 1983, he worked for the whole year, in

1984, he worked for almost seven months. In 1985, he worked for 8 months, in 1986, he worked for 4 months. Thereafter he absented for medical grounds. He did not work from 14-4-1986 onwards. This shows that he was not a Beldar on daily wages except in the year 1982 and 1983 and 1985, he did not work for more than 240 days. It simply indicates that whenever there was work, he was called and he worked during a particular period when the work was over, he did not come on duty. The learned counsel for the workman cited LLJ 1999, pages No. 1260, the Hon'ble Supreme Court has held that the Limitation Act does not apply so in case there is a delay of seven years. Article 137 of the Limitation Act, would not apply to the proceedings of the ID Act, 1999 Second LLJ pages 482 was also cited regarding delay. In this judgement, the Hon'ble Supreme Court has held that the Limitation Act does not apply in the proceedings of the ID Act. In 1997, SCC-621, 1993 LLJ 696, 1991-LLJ 395, 1999 LLJ Page 1164, the Hon'ble Supreme Court has held that the service of permanent employee cannot be terminated by giving him three months notice or pay in lieu thereof or even without notice not withstanding any stipulation in certified standing orders. The employee must be given opportunity to be heard. This rule is not applicable in this case. As in his statement of claim, it has been mentioned that he was a Beldar on daily wages. So far as the delay is concerned, delay is not applicable in ID Act in view of the judgement of the Hon'ble Supreme Court.

The learned Counsel for the Opposite Party advanced argument that in case delay is not applicable, still he was not a permanent employee, and in the last year, he had not completed 240 days of work so he is not entitled to get relief sought for.

He further argued that he was under treatment from 1-8-1986 to 28-02-1987 and he was fit to resume duty on 1st March, 1987. He has filed another medical certificate in which he was under treatment from 1st March, 1987 to 20-12-1987. When he was fit to resume duty, he ought to have applied for duty but his medical certificate shows that he was not fit for resuming duties on 1-3-1987 as the second certificate mentions that he was under treatment from 1-3-1987 to 22-12-1987, he further argued that if it is supposed that he was ill from 1-8-1986, then under what circumstances, he was not present on 14-4-1986 on wards. It simply shows that the employee was on seasonal duty and for the employees on seasonal duty, the ID Act is not applicable.

My attention was drawn to 1982 S.C.C. page 124, the Hon'ble Supreme Court has held that under Industrial Disputes Act, 1947 Sections 2 and 25 F are to be followed. Termination of services for unauthorised absence from duty amount to retrenchment. Even a casual or seasonal workman who has rendered continues service for 1 year or more cannot be retrenched without complying with the requisites of 25F ID Act.

In view of the decisions of Hon'ble Supreme Court the service of a casual labour or a seasonal labour can be terminated with notice.

It has been further held in L.L.J 1998 page 1165 L.C.R 1994 page 323 D.L.T 1999 (82)747 1999 L.L.R 130 that the management should also filed documents to show that the workman was seasonal or casual worker in this case such documents have not been filed. It is of course true that the employee was a absentee but in 3 yrs. He was worked for more than 240 days. The employer should have taken action for his absence but it has not been done so. In 1985 the workman has worked for 8 months that is for 240 days in 1983 he has worked for 12 months in 1982 he has worked for 9 months in 1986 he has worked for 4 months. There after he absented himself and thereafter he fell ill. His certificate may not be genuine but still he cannot treated as seasonal worker as 1983. He has worked for the whole year so he is neither a casual labour nor a seasonal workman The citation mentioned above apply in this case.

The counsel for the workman argued that it shall be deemed to be the case of retrenchment. Notice is necessary. The workman has not done the work for the whole year but in 1985 and 1984, he worked for more than 240 days. He is absent from 1987 so he ought to have been given a notice either of retrenchment or of termination. Since notice has not been given, so the order of the employer is not justifiable.

I have gone through the record. The workman has been absent every year. The Management should have taken action but the management did not take any action even if medical certificate is not correct, he shall be deemed to be without pay. It is necessary in such circumstances, in view of the bipartite settlement that his services cannot be terminated without notice. Since no notice has been given the workman deserves to be reinstated. He is not entitled to full back wages as he was a habitual absentee. 25% wages from the date of reinstatement would meet the ends of justice.

It has been observed that the workman was habitual absentee. He has not worked regularly. In view of his absence from work without any notice and false medical certificate he deserves to be reinstated from 10-01-1991. He is not entitled to get full back wages from the date of reinstatement as in some years he has worked for 4 months and 6 months and absented without any notice. So the work of the opposite party might have suffered. As such he is entitled to get only 25% back wages from the date of his reinstatement. The point referred to for adjudication is replied thus.

The action of the MTNL New Delhi in terminating the services of Sh. Shiv Dutt w.e.f. 22-12-1987 is not justified the applicant workman should be reinstated from 10-01-1991. He is entitled to get only to 25% back wage from the date of his reinstatement. The Award is given accordingly.

R.N. RAI, Presiding Officer

नई दिल्ली, 10 फरवरी, 2004

का. आ. 535.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (सदर्भ सख्या 16/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-2-04 को प्राप्त हुआ था।

[सं.एल-12011/16/2002-आई.आर. (बी.-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 10th February, 2004

S. O. 535.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2002) of the Central Government Industrial Tribunal-cum-labour Court, Lucknow, as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workman, received by the Central Government on 10-02-04.

[No. L-12011/16/2002-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRTBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

SHRIKANT SHUKLA

PRESIDING OFFICER

I.D. NO. 16/2002

Ref. No. L-12011/16/2002/IR(B-II) dated 15-3-2002

Between

The Regional Secretary

Central Bank of India Employees Union Agra.

Regional Office, 470 Bhud Bazaria Pattay, Bareilly (U.P.)

AND

The Regional Manager,

Central Bank of India

Regional Office, B-88, Civil Lines,, Bareilly (U.P.)

AWARD

Government of India, Ministry of Labour vide its order dated 15-3-2002 referred the following issue for the disposal to CGIT-cum-Labour Court, Lucknow.

> "Whether the claim of the Central Bank of India Employees Union that the Disputant Shri Anand Kumar has been engaged as a temporary sub staff on daily wage basis since the year 1997 and that he has completed 240 days of continuous service in any preceding 12 months period is correct? If so, whether the disputant is entitled for regularisation of his service as a sub staff? If not, what relief is the disputant entitled to"?

Subseqently, Government of India, Ministry of Labour vide its corrigendum No. L-12011/16/2002-IR(B-II) dated 23rd May 2003 amended the reference and as such the reference is in respect of following issues;

1. Whether the claim of the Central Bank of India Employees Union that the disputant Sh. Anand Kumar has been engaged as a temporary Sub Staff on daily wage basis since the year 1997 and that he has completed 240 days of continuous service in any preceding 12 months period is correct ?
2. Whether the action of the management of Central Bank of India is terminating the services of Sh. Anand Kumar on 3-7-2001 is legal and just ?
3. Whether the disputant is entitled for absorption/ regularization of his service as a sub staff. I not justified, what relief is the disputant entitled to ?"

The Regional Secretary, Central Bank of India Employees Union has filed the statement of claim A-10 alleging therein that Sri Anand Kumar C/o Rakesh Pakoriwala, Jogi Niwada, Near Baba Bankhuandi Nath Mandir, Anaj Mandi, Bareilly approached the Senior Manager, Central (hereinafter referred to as the Bank) Kutub Khana Branch Bareilly in the month of Jan. 1997. The Sr. Manager of the above said branch of the bank appointed Sri Anand Kumar as temporary Peon w.e.f. 2-1-97. In the moming he was required to dust and clean the furniture of the branch, take out books and place the same on respective tables/counters, posting dak, taking clearing cheques to clearing house at time, movement of vouchers/cheques from one table to another providing water to the staff and other duties which devolve on a peon in this bank. Besides this the workman was required to perform duties at night as well. Instead of being paid the prescribed salary of peon by the bank, the workman was being paid Rs. 30/- per day which raised to Rs. 50/- per day and ultimately to Rs. 70/- per day excluding Sundays and holidays. These payments were usually made on daily basis. During the course of the employment Sri Anand Kumar requested to the Sr. Manager for regularisation of his services but management did not consider his request. The workman. The workman approached to union and union raised this Industrial Dispute before the ALC(C) Dehradun demanding regularisation of the services of the workman. After receipt of the notice from the ALC(C) Dehradun the bank terminated the services of the workman on 3-7-2001 without assigning any reason, without payment of notice pay and retrenchment compensation. The concilition proceeding ended in failure and matter was referred to the Industrial Tribunal for adjudication. Therefore it has been prayed by the workman that this court may hold that the workman Sri

Anand Kumar was engaged as temporary sub staff peon on daily wage basis since 1997 and that he has completed more than 240 days of continuous service in all the preceeding the date of termination. It has further been prayed that the court may further hold that action of the Central Bank of India in terminating the services of Sri Anand Kumar on 3-7-2001 is illegal and unjustified and therefore the court should order the reinstatement of the worker with full back wages and absorption in permanent services of the Bank.

The opposite party has filed the Written Statement A2-13 and denies the allegations contained in the statement of claim submitted by the Regional Secretary of the union.

The Regional Secretary has filed the rejoinder A1-15 and has retraited the contents of the statement of claim.

16th Sept. 2003 was the date fixed for evidence but on the said date the worker did not appear and on the application of the opposite party 28th Nov. 2003 was fix for evidence. On 28-11-2003 also the worker remained absent and therefore the court ordered that case be proceeded exparty against the workman.

Today i.e. 22-1-2004 the worker remained absent and the opposite party has produced Sri S.C. Sharma, Sr. Manager, Central Bank of India as his witness. Heard arguments of the opposite party. On the one hand workman has failed to for that he was appointed as temporary sub-staff on daily wage basis in the year 1997. The union has also not filed any letter of appointment to show that he was appointed as such.

The worker has also not given any specific date and month in the year 1997 when he was engaged as temporary sub staff.

The burden was on the union and the worker to prove that he was appointed on 2-1-1997 as temporary sub-staff. On the other hand Sr. Manager of the Central Bank of India of the said branch has stated on oath that he is posted in the same branch to which the union has alleged for employment of the Anand Kumar. Sri S. C. Sharma, Sr. Manager has stated on oath that he has gone through the records of the bank after joining in the bank in August 2000 and has not found any person Anand Kumar working as temporary peon. He has also stated that Sri Anand Kumar never worked while he was posted.

So far as the cleaning and dusting of the furniture is concerned, Sr. Manager has stated that said duty is performed by the part time Safai Karmchari. Sr. Manager has also stated so far as the carrying of ledger book concerned from one table to another table it is done by the peon and regarding the carrying of the cheques, he has stated that it is not the peon duty to carrying the cheques to the clearing house. The Bank manager stated that two peons are working in the said branch and there is no need additional hand in the said branch.

He has also proved that the appointing authority of the peon is not Branch Manager or Regional Manager. He has also stated that he has no authority to appoint the peon.

On the one hand union failed to prove that Sri Anand Kumar never engaged as temporary sub staff since the year 1997 and that he has not completed 240 days in any proceeding 12 months. Since the union has not proved the engagement of Sri Anand Kumar as temporary sub Staff or peon therefore there is no question of termination of Anand Kumar and there is no question of absorption as such that the result that the worker is not entitled to any relief.

SHRIKANT SHUKLA, Presiding Officer

LUCKNOW
23-1-2004

नई दिल्ली, 12 फरवरी, 2004

का. आ. 536.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चंड़ीगढ़ के पंचाट (सदर्भ सख्या 45/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-2-2004 को प्राप्त हुआ था।

[सं. एल-12012/258/93-आई.आर. (बी.II)]

सौ. गंगाधरण, अवर सचिव

New Delhi, the 12th February, 2004

S. O. 536.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45/96) of the Central Government Industrial Tribunal-cum-labour Court Chandigarh as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 10-2-2004.

[No. L-12012/258/93-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHANDIGARH

PRESIDING OFFICER : **Shri S. M. Goel**

CASE NO. ID 45/96

Arun Kumar, S/o Sh. Subedar Lal, H.No. 3290, Sector 44-D, Chandigarh. Applicant.

Vs.

Regional Manager, Punjab National Bank, Sector-17B, Chandigarh. Respondent

APPEARANCES

For the Workman. Shri R. K. Chopra.

For the Management. Shri Ashok Kumar.

AWARD

(Passed on 28-1-2004).

Central Govt. vide notification No. L-12012/258/93(B.II) dated 17th April, 1996 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of PNB, Chandigarh in terminating the services of Sri Arun Kumar Garg, Clerk-cum-Cashier w.e.f. April, 1984 is legal and justified, If not, to what relief is the said workman, entitled?"

2. Today the workman and the Representative of the Management made the statements that the dispute has been settled amicably between the parties in the following terms.

That Shri Arun Kumar would report for his duties within 30 days from the date of signing of this settlement to Regional Office, Chandigarh, Sector 17-B, Chandigarh and upon his so reporting he would be posted at the point of need as clerk/cashier any where in the Region.

2. That Shri Arun Kumar would be fitted at corresponding basic pay in 7th BPS. In the clerical cadre to what he was drawing immediately prior to his cessation in the services of the bank.

3. That Shri Arun Kumar would not be entitled to back wages and to any benefit monetary or otherwise. Further, the period for which Shri Arun Kumar had worked as clerk/cashier as well the intervening period shall not be considered for any purpose whatsoever but for the terminal benefits viz. gratuity.

4. That this is in full and final settlement of all claim arising out of the dispute raised by Shri Arun Kumar.

3. As both parties settled the dispute on the terms referred above, the workman is directed to report to the bank for duty within 30 days from today for his posting. In view of the above settlement the reference is disposed off as settled. Central Govt. be informed.

S. M. GOEL, Presiding Officer.

Place : Chandigarh.

Dated : 28th January, 2004.

नई दिल्ली, 10 फरवरी, 2004

का. आ. 537.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **सेंट्रल बैंक ऑफ इंडिया** के प्रबंधतत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चंड़ीगढ़ के पंचाट (सदर्भ सख्या 123/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-2-2004 को प्राप्त हुआ था।

[सं. एल-12012/114/92-आई.आर. (बी.II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 10th February, 2004

S. O. 537.—In pursuance of Section 17 of the industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 123/92) of the Central Government Industrial Tribunal-cum-Labour Court Chandigarh as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 10-2-2004.

[No. L-12012/114/92-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

PRESIDING OFFICER : Shri S. M. Goel

CASE NO. ID 123/92

President, Central Bank of India, Employees Union (Punjab) 811, Phase II, Urban Estate, Focal Point, Ludhiana.

Applicant.

Vs.

Regional Manager, Central Bank of India, Regional Office, 470, Lajpat Nagar Market, Model Town Road, Jallandhar.

Respondent.

APPEARANCES

For the Workman. K. S. Joshi.

For the Management. P. K. Dutt.

AWARD

(Passed on 29-1-2004).

Central Govt. vide notification No. L-12012/114/92-I.R.B-II dated 31-8-1992 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Central Bank of India in punishing Sh. Arjan Singh, Clerk, by stopping one increment with cumulative effect, is legal and justified, If not, to what relief is the workman entitled."

2. In the claim statement it is pleaded by the workman that he was issued charge sheet which was later amended also. The charge sheet issued is as follow :

"That on 24-2-1988 about 4PM, applicant created nuisance in the branch premises by shouting loudly

when he was asked by Acctt Shri S. K. Bhalla not to do the same, he slapped Shri Bhalla and manhandled him"

The applicant in the claim statement further pleaded that on this charge after holding enquiry which according to the workman is unjust and against the principle of natural justice. In the findings of the enquiry officer, the enquiry officer has categorically given finding that the applicant acted out of provocation by the accountant. It is further pleaded that penalty imposed is permanent financial loss which is disproportionate to the alleged misconduct. He has thus prayed that order dated 19-8-1988 be set aside and the increment be restored to the applicant with all benefits.

4. In written statement the management pleaded that in the charge of gross misconduct the enquiry was conducted against the workman in accordance with the principle of natural justice and he was allowed all reasonable opportunities to put forth his defence and there was no denial of natural justice. It is further pleaded that there was no unreasonable delay in issuing the charge sheet and addition were made in accordance with the Bipartite settlement. It is further pleaded that the enquiry was conducted in fair and proper manner and the workman is not entitled to any reiief. It is further prayed that in case this Tribunal comes to the conclusion that for any technical reason, disciplinary action taking against the claimant is vitiated the management reserves it right to lead evidence to prove the charges against the applicant. The management thus prayed for the rejection of the reference.

5. Replication was also filed by the applicant reiterating the claim made in the claim statement.

6. The management has placed on record the entite enquiry proceedings and the parties were called upon the to argue the case on fair-ness of the enquiry.

7. The learned counsel for the workman in all fairness to him has submitted that he did not want to assail the enquiry proceedings and assuming it to be correct and fair and proper, he requested this Tribunal to intervene in the punishment aspect of the case. The learned counsel for the workman has argued that the punishment awarded is very harsh and disproportionate to the alleged misconduct and it is permanent loss to the workman for his entire service which is very harsh and has prayed that U/s 11-A this Tribunal should interfere and punishment should be reduced as the applicant has unblemished past service record.

8. I have gone through the entire enquiry proceedings and after examining it carefully, and after hearing the learned counsel for the parties, since the enquiry proceedings have not been disputed by the learned counsel for the workan, therefore, it is held that the enquiry conducted against the workman is fair and proper and was conducted in accordance with the principle of natural justice.

9. Regarding the punishment aspect, in view of facts and circumstances of the case, since the increment has been stopped with cumulative effect which is permanent loss to the workman for lifetime, therefore, exercising the powers U/s 11-A of the I.D. Act 1947, the punishment order is modified as under :

(i) From the date of passing this award, the cumulative effect will go and the workman would not receive any arrears till the date of passing of this Award and the increment is restored from the date of the award.

10. Therefore, with this modification in punishment, the reference is disposed off holding that the enquiry conducted is in accordance with the principle of natural justice. Central Govt. be informed.

Chandigarh.

29-1-2004

S. M. GOEL, Presiding Officer

नई दिल्ली, 10 फरवरी, 2004

का. आ. 538.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इण्डिया के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चंडीगढ के पंचाट (संदर्भ सख्या 74/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-2-2004 को प्राप्त हुआ था।

[सं० एल-12012/170/85-डी. II(ए)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 10th February, 2004

S. O. 538.—In pursuance of Section 17 of the industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 74/98) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 10-02-04.

[No. L-12012/170/85-DII(A)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRTBUNAL-CUM-LABOUR COURT, CHANDIGARH

Presiding Officer : Shri S. M. Goel

Case No. ID 25/86 New Number ; 74/98

Bal Krishan Sareen, 3380, Sector 40-D, Chandigarh.

... Applicant

Versus

Chairman Managing Director, Bank of India, Express Towers, Nariman Point, Bombay ... Respondent

APPEARANCES :

For the Workman : Workman in person

For the Management : Sh. S. P. Bhaskar

AWARD

(Passed on 30th January, 2004)

Central Govt. vide gazette notification No. L-12012/170/85. D. II(A) dated 11th of February, 1986 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the bank of India in terminatiang the services of Shri Bal Krishan Sareen, Staff Officer. In their Sector 17 B Branch w.e.f. 26-11-1983 is legal and justified? If not, to what relief is he entitled?"

2. The above reference was answered and the management aggrieved by the Award challenged the same in the Hon'ble High Court of Punjab & Haryana and vide the judgement of the Hon'ble Single Judge of the Hon'ble Punjab & Haryana High Court dated 11-3-1991 upheld the Award of the Central Govt. Industrial Tribunal reinstating the workman in service with full backwages. Aggrieved by the judgement of the Hon'ble Single Judge, the management filed the letter Patent Appeal No. 425/91 which was decided by the Hon'ble High Court on 6-2-1996 remanding back the reference to this Tribunal for deciding the same with the following direction :

"Therefore, it has become obligatory upon us to remit the award and the proceedings conducted by the Labour Court on a limited question whether the inquiry officer had conducted the inquiry in a valid manner or not and whether it stands vitiated on any ground, whatsoever as alleged by the workman in his statement of claim. To determine and adjudicate this limited question, we direct the Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court, Chandigarh to give his finding on the above question and the Presiding Officer would be entitled to give his finding afresh on this score only.

Consequently, this appeal succeeds & the judgement dated 11th March 1991 passed by the learned single judge in CWP No. 3148 of 1987 is set aside and the award of the Tribunal is also set aside for the limited purpose. We direct the Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court, Chandigarh to make afresh inquiry regarding the validity of the inquiry conducted by the inquiry officer against the workman and give his finding there upon."

The parties are directed to appear before the Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court, Chandigarh on 19-2-1996 C.M. No. 1529/c. 11 of 1992 stands dispose of.

Feb. 6, 1996

Sd/-

R. L. Anand

Judge

Sd/-

R. P. Sethi

Judge

3. The workman had submitted his statement of claim stating briefly that the workman was appointed in the Bank of India as clerk-cum-typist on 17-10-1970 and was subsequently promoted on 1-12-1976. That on account of certain reasons the Bank authorities were annoyed with him because the workman was also a member of the Executive Committee of the Bank of India Employees Association and he was also the General Secretaty of the Bank of India Officer's Association Northern Western Zone, Chandigarh. That a departmental enquiry was conducted against him and after departmental enquiry the services of the workman were terminated which enquiry report and the proceedings are to be vitiated on account of not following the principles of natural justice and, therefore, the workman requested that the orders passed by the disciplinary authority dated 26-11-1983 of the management against the workman be set aside and the proceedings of the departmental enquiry may be quashed.

4. The management also submitted its written statement refuting the claim of the workman and prayed that the departmental enquiry conducted against the workman may be held as conducted in accordance with the principles of natural justice.

5. Replication was also filed by the workman in support of his claim statement.

6. The workman also submitted his affidavit reiterating his claim and holding that the enquiry was held in arbitrary and illegal manner and no opportunity was given to the workman to lead his defence. On behalf of the management, Mangal Singh the then Industrial Relation Officer, Bank of India, Chandigarh also submitted his affidavit.

7. After considering the evidence on record the then Ld. Presiding Officer Shri M.K. Bansal, passed the Award dated 9-4-1987. Against this Award, the management filed Writ Petition No. 3148 of 1987 and then the LPA No. 425 of 1991. In LPA 425 of 1991 the Hon'ble Division Bench of the Punjab & Haryana High Court set aside the judgement dated 11-3-1991 passed by the Hon'ble Single Judge in CWP No. 3148 of 1987 and the Award of the Tribunal was also set aside for the limited purpose. The Hon'ble High Court had also directed this Court to make a fresh enquiry

regarding the validity of the enquiry conducted by the enquiry officer against the workman and give its finding there upon.

8. In compliance of the orders and directions of the Hon'ble High Court, the then Presiding Officer vide his orders dated 11-5-1999 directed the parties to adduce evidence if they so desired in compliance of the orders of the Hon'ble High Court. Therefore, the parties adduced their additional evidence. The workman B. K. Sareen submitted his affidavit Ex. W5 and also appeared for cross-examination after his re-examination was recorded by way of his affidavit Ex. W5. Earlier his evidence was recorded on 12-12-1986. The workman also examined WW2 Dr. S. K. Batra who verified the fact that B. K. Sareen was medically examined by him and he had prescribed certained medicines to him. This witness was recalled by this Court for further cross-examination. WW3 Davinder Pal Mahajan also submitted his affidavit and was also cross-examined on behalf of the management. He has only proved that he had repaired the scooter of the workman. The workman has also produced WW4 Sudesh Behl also supported his affidavit Ex. W3. He has appeared to prove that in his presence some of the house hold articles of B. K. Sareen were located in the truck for transportation from Chandigarh to Patna. Against the aforesaid evidence the management produced Shri Mangal Singh in the year 1987 as MW1. He has refuted the claim of the workman that the workman was victimized due to unfair labour practice by bank. He has also stated that the enquiry was not false and the charges have been proved. Another witness Shri S.K. Kundra Zonal Manager, Bank of India Bhubneshwar proved his affidavit Ex. M1. He has stated that he was the Presenting Officer during the enquiry against the workman. This is the entire evidence led by both the parties in this Court to refute the allegations against the workman or support them by the management. It is on this basis and also on the basis of enquiry proceedings that this Court has to decide as to whether the charges framed against the workman were proved during the departmental enquiry and whether the principles of natural justice have been followed.

9. The Departmental Enquiry was conducted against the workman on the following charges :

Article No : I

On his transfer from Chandigarh to Patna Main Branch, he submitted a false claim dated 17th June, 1981 for Rs. 2660—75 to Manager, Patna Branch, towards reimbursement of expenses purported to have been incurred by him for transporting his personal belongings from Chandigarh to Patna and obtained reimbursement of Rs. 2120/- on 20th June, 1981 and further in support of the said false claim he submitted a transport Bill of Rs. 1122/- fraudulently obtained from M/S. Delih Shimla Goods Carriers (Regd.) Chandigarh in as much as he did not transport any personal belonging through the said transport agency.

Article : II

He falsly complained to the Zonal Manager, North Western Zone, vide his letter dated 28-12-1981, alleging that Shri T. S. Sekhon, Security Officer had demanded a bribe of Rs. 500/- for submitting an investigation report in his favour and thus attempted to malign the character of the official who was investigating the misconducts alleged to have been committed by him.

Article : III

He dishonestly submitted claims to Patna branch for reimbursement of medical expenses purported to have been incurred by him for amounts totalling of Rs. 7005.90 and claimed reimbursement of Rs. 7005.90 there against during the period 29-4-1980 to 30-9-1980 by submitting bills from one Dr. S. K. Batra, Chandigarh whereas while submitting applications for leave on medical grounds the medical certificates submitted by him for the relevant period, were issued by Nehru Hospital attached to P.G.I., Chandigarh and Dr. P.S. Handa who were stated to be treating him as per his application.

10. After concluding the departmental enquiry, the enquiry officer held all the three charges against the workman as proved. Here in this Court, both the parties submitted their respective written arguments. They did not submit orally in this Court any arguments. The enquiry Officer held in this enquiry report that he had carefully gone through the affidavits but did not find anything worthwhile to establsih the innocence of the workman. Some of them were given by his own friend and neighbour with a view to harbour Shri Sareen. The enquiry officer did not afford reasonable oportunity to the workman to pr ce the defence witnesses before him and abruptly he closed the evidence of the workman. The workman had demanded two weeks time to produce them before the enquiry officer but the enquiry officer for the reasons best known to him did not allow his request. The enquiry officer relied on the evidence of R. Jha who visited the house of the workman at Patna on 20-11-1981 and found that any article which might have been transported from Chandigarh to Patna was not lying at his house. Shri A. M. Palit also stated that the workman had told to him, that he had sold his house hold articles and he had not disclosed to h m any reliable man to whom he had sold these articles and no such statement of the workman (Shri Sareen) was recorded by Shri Palit or by Shri Jha. In any case on the affidavits had been filed on behalf of the workman that he actually transported the house hold effects from Chandigarh to Patna it was for the enquiry officer to afford sufficient and reasonables opportunity to the workman to produce his witness to support the fact that he had actually transported his luggage from Chandigarh to Patna which fact was also fortified by the receipts etc. Therefore, apparently on this account and not allowing the evidence of the workman, prejudice had been caused to the workman by not allowing him sufficient and reasonable time to produce his evidence

and simply discarding the affidavits stating that they were false is not a correct approach. Here, in this court the management did not like to produce any evidence in support of this charge.

11. So far as the 2nd charge is concerned it is alleged that the workman vide his letter dated 28-12-1981 had falsely complained to the Zonal Manager, North Western zone, that Shri T.S. Sekhon, Security Officer demanded a bribe of Rs. 500/- for submitting an investigation report in his favour and thus attempted to malign the character of the official. In order to prove this charge, the enquiry officer recorded the statements of Shri T.S. Sekhon. At the best, his evidence may be of negative character. The framing of the charge itself speaks that the onus to prove this charge was at the workman and not on T.S. Sekhon. Had Shri Sekhon was facing this charge the workman could prove by his evidence or the workman should have been given sufficient and reasonable opportunity to prove this charge against Shri T.S. Sekhon. I may repeat Mr. Sekhon was not facing any charge. In view of the enquiry proceedings, so far as the maligning the character of Mr. Sekhon is concerned, the Zonal Manager North, Western Zone should have first enquired into the matter as to whether T.S. Sekhon had actually demanded the bribe of Rs. 500/- from the workman or not? I may repeat that this charge No. II had not been proved against the workman and, therefore, the enquiry relating to this charge is also vitiated. The management did not prove in this court also that B.K. Sareen had falsely stated against Sh. T.S. Sekhon.

12. So far as the Article of charge III is concerned it relates to the reimbursement of medical expenses. The workman had produced Dr. S.K. Batra WW2 who gave consultation to the workman. The enquiry officer did not like to give reasonable and sufficient opportunity to the workman to lead his defence so that he could produce Dr. Batra to this effect. The enquiry officer without assigning any reason and without finding any fault had rejected the prescription of Dr. Batra though the management had not led any evidence to prove this charge and the enquiry officer had also not allowed the evidence of the workman to refute this charge by closing his evidence abruptly. I may, therefore, hold that the rejection on the part of the enquriy officer the prescription slips of Dr. Batra is perverse finding. Here in this court also the management has failed to produce any evidence which may prove that the workman was hale and hearty and he submitted forged and false prescription. On the other hand the workman has examined Dr. S.K. Batra who has proved the ailment of the workman and his treatment.

13. Thus having gone through the evidence of the parties in support or against the enquiry proceedings and having gone through the written arguments of both the parties, I am of the considered view that the workman was not afforded reasonable and sufficient opportunity to defend himself during the enquiry and the principle of natural justice has been violated rendering the enquiry as vitiated. Therefore, the entire enquiry is vitiated.

14. It is also argued on behalf of the workman that the management has not supplied the enquiry report to the workman and no show cause notice was given to the workman before inflicting the major penalty of termination of service. The applicant also relied on the judgement of the Hon'ble Supreme Court in the case of Punjab National Bank Vs. Kunj Bihari Mishra etc. reported in AIR 1998 S.C. 2713 in which it has been held by the Hon'ble Supreme Court that the principle of natural justice would demand that the authority which propose to decide against the delinquent officer must give him a hearing and when the inquiring officer holds the charges to be proved then that report has to be given to the delinquent officer. The full bench of the Hon'ble Punjab & Haryana High Court in the case of Ram Niwas Bansal Vs. State Bank of India reported in 2002(2) RSJ page 27 held that the non supply of the copy of enquiry report has prejudiced the petitioner and the dismissal order was set aside. In this case also, the management did not supply the copy of the enquiry report before inflicting the punishment on the workman. Therefore, this authority is also applicable on the facts and circumstances of the case of the workman. The workman has also relied on the judgement of the division bench of the Hon'ble Punjab & Haryana High Court in the case of Surinder Kumar Mittal Vs. State of Haryana in which it has been haled that punishing authority, before passing an order inflicting the major punishment is enjoined to serve delinquent official with a show cause notice accompanied by a copy of enquiry report and failure to do so by the disciplinary authority order of punishment is quashed.

14. In this case also it is admitted position that before inflicting the punishment of termination of services, the workman was not served with the show cause notice and the enquiry report, therefore, the order of terminating of services of the workman is quashed and on this count also.

15. The management examined in the court to prove the validity of enquiry proceedings and report, Shri Mangal Singh and Sh. S. K. Khundra. The evidence of both these witnesses do not relate to any article of the charge nor they are witnessess of facts. Evidence of Shri Mangal Singh relates to employees Union activities and that of Sh. Khundra is, that on behalf of the management he was the Presenting Officer in the Enquiry Proceedings.

16. In view of the findings recorded above, I am of the considered view that the enquiry was conducted against the principle of natural justice and the same is vitiated and the order of punishment is setaside. The workman is ordered to be reinstated in service with full backwages and with all service benefits. The management is directed to implement the award with in one month from the date of publication. The reference is answered accordingly. Central Govt. be informed.

Chandigarh.

Dated : 30-1-2004

S. M. GOEL, Presiding Officer

नई दिल्ली, 11 फरवरी, 2004

का. आ. 539.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्टोन्मेन्ट बोर्ड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचाट (संदर्भ संख्या 39/89) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-12-04 को प्राप्त हुआ था।

[सं. एल. 13012/1/87-डी. 2(बी)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2004

S. O. 539.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/89) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Cantonment Board and their workman which was received by the Central Government on 11-2-04.

[No. L-13012/1/87-D.2(B)]

KULDEEP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Presiding Officer : Shri S. M. GOAL

CASE NO. I.D. 39/89

Sardar Chand
S/o. Shri Teja Singh,
V & Po : Panjilasa, Tehshil : Naraingarh,
District, Ambala (Haryana)

.... Applicant

Versus

Executive Officer,
Cantonment Board,
Ambala Cant.

....Respondent

REPRESENTATIVES

For the Workman : None,

For the Management : Sh. Jinender Sharma,

AWARD

(Passed on 8th January, 2004)

The Central Government Ministry of Labour Vide notification No. L-13012/1/87-D. 2 (B) dated Ist March, 1989 has refered the following dispute to this Tribunal for adjudication :

"Whether the action of the Executive Officer Cantonment Board Ambala Cantt in terminating the services of Shri Sardar Chand S/o. Shri Teja Singh, Income Tax Inspector w.e.f. 27-2778 is legal and justified ? If not, to what relief the concerned workman is entitled and from which date."

2. Case repeatedly called. None has putup appearance on behalf of the workman. It appears that workman is not interested to pursue with the present reference. In view of the above that none is appearing on behalf of the workman, Present reference is dismissed in default. Central Govt. be informed.

Place : Chandigarh
Dated : 08-1-2004.

S. M. GOEL, Presiding Officer

नई दिल्ली, 11 फरवरी, 2004

का. आ. 540.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू.डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 2/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-04 को प्राप्त हुआ था।

[सं. एल-42012/26/97-आई. आर.(डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2004

S.O. 540.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/98) of the Central Government Industrial Tribunal/Labour Court, No. II, New delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CPWD and their workman which was received by the Central Government on 11-2-2004.

[No. L-42012/26/97-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,

RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE, NEW DELHI

Presiding officer : R. N. RAI

I.D. NO.-2/98

Satbir Singh

Versus

M/s. Management of Superintending Engineer (Coordination Circle)
M/s. Superintending Engineer, CPWD
M/s. Superintending Engineer,

M/s. Executive Engineer,
M/s. Executive Engineer,

AWARD

By the Ministry of Labour letter dated 25-12-1997 following points has been referred to by the Govt. the points run as here under.

> "Whether the action of the manangement of CPWD in terminating the services of Shri Satbir Singh, Beldar w.e.f. 29-04-1982, is legal, just and fair? If not, then what relief he is entitled to and from what date"?

In the statement of claim AR/workman ha stated that he was engaged has Beldar and posted under a Astt. Engineer Meerut Central Sub-division CPWD and worked continuously upto 28-4-1982. He worked for 112 days in 1979 and 277 days in 1980 and 257 days in 1981 his services were terminated on 29-8- 1982 without any notice pay and compensation .

The workman was told that there was no vacant post. Whenever a post will be vacant he will be appointed on permanent basis under CPWD. The work under Meerut Central Sub-division was transferred to CPWD Shahdra Central Division PWD IP Bhawan New Delhi. The workman was continuously approaching to the circle level individually and through trade union.

It is further stated that an interview letter was sent to the workman by the supdg. Engineer CPWD IP Bhawan New Delhi on 16.02.1988 directing the workman to produce details as mentioned in the letter and the particulars of the work during 1979—82 at 11 A.M. for the post of Beldar but the said letter was handed over to the concerned workman by Asstt. Engineer Meerut Sub-division CPWD on 24-02-1988 which is an Annexure 1.

It has been further that the workman contacted the Supdg. Engineer New Delhi on 24-02-1988 and also submitted the same facts to management No. 1.

It has been further stated that Sh. K.S Kochhar Senior Labour Officers on 11.03.1988 . Along with letter with but he was told that he did not reported for interview on 23-02-1988 because he has received the interview letter on 24-02-1988 and also requested to take interview on some other day or to reinstate the workman on Muster roll w.e.f. 29-04-1982 and his services be regularised as many juniors have been regularised in the same grade by the management which is Annexure II.

Annexure III contains the correspondence with the management and replies.

It has been further submitted that the management has terminated his services illegally and against the provision of Industrial Disputes Act, 1947.

It has further submitted that in the case of Sh. Surinder Singh and other Versus Engineers in Chief CPWD and other all the daily rated workers on Muster roll got employment an arrears and the revised pay scale. The services of the said workman should be regularised in view of the judgement of the Supreme Court the workman could not be interviewed so he suffered for no neglegance of his own as interview letter was handed over him 10 days later.

It has been further submitted that in a conciliation proceeding were held. At the instance of Asstt. Labour commissioner but that too failed.

It has been further submitted that the workman work for more than 240 days in a period of 12 months in 1980-81 which is annexure for 4 that the termination was his services was unjustified and illegal he should be re-instated w.e.f. 29-04-1982 and pay scale of Rs. 2550-3200 w.e.f. 01-01-1996.

The opposite party has filled written statement. In his written statement he was cited the judgement of the hon'ble Supreme Court AIR 1993 SC 2276 as the workman has slept over his right.

It has been further submitted that the paras of the claim are not correct. The applicant was engaged as Beldar on purely temporary basis on day today basis on Muster roll. The applicant was working on a project was completed and his services were no longer required after 29-04-1982 and there was no sanction Muster roll. The applicant himself has admitted that there was no post averiple in 1997 (3) SL1 49 it has been laid down by the hon'ble court "where there is no work casual labour cannot be retained" so the question office re-instatement does not arise no assurance was given to him. His case is time-bard it is wrong to say that the workman was continuously approaching the circle level individually or through trade union. He never approached for 13 years until he moved application before the Labour Commissioner. The interview letter was sent inadvertently. His services came to an end on the completion of the project and the workman become surplus. His services were not terminated but automatically came to end an the completion of the project that it why the applicant kept silent from 1988 to 1995 no junior to him has been engaged.

It has been further stated that his services came to an end for non-availability of vacancy and completion of the project in which the workman was working so his complaint should be rejected out rightly.

In ID Act, 1947 there is no period of limitation it is wrong to say that workman was engaged as Beldar on day to day basis on muster roll service he performed his duties continuously and completed more than 240 days. He deserves to be re-instated the paras 8-19 of WS are actually incorrect so they are denied.

Heard the arguments of the learned counsel Sh.V. K. Prasad for the workman and R. M. Singh for the management.

Heard the argument of R.N. Singh from the management side and V. K. Prasad from the workman side .

The learned counsel from the workman said that the applicant worked for 112 days in 1979. 270 days in 1980

and 256 days in 1981 on 29-04-1982. His services were terminated the project under which he worked is still in-existance. The employers are not taking in service in 1988 and interview letter was sent but he received it on 24th. So he could not appear in the interview.

1999 I.L.J was cited from the side of the workman in which the hon'ble Supreme Court has said that that limitation Act is not applicable in ID Act however there was a delay of 7 yrs. AIR 1993 SC Page 2276 is not applicable in this case. AIR 1993 Page 2278 SC is not applicable in this case. 1999 LAB LC 619 is not applicable as that is in regard to misconduct of the workman 1999 LAB.L.C.621 is not applicable. 1999 ALJ 482 and A.T.R 1986 SC 76 are not also applicable for the circumstances of these cases are different. The other case laws cited by both the parties are not applicable as they pertain to different matters.

On behalf of the management it was argued that he worked for 3 yrs. and the project was for 3 yrs. The project was completed in 1981 so the workman left the work himself. He left the work in 1981 and move the union in 1988 just after 14 yrs. The interview letter was sent in advertently.

It was further argued that the workman is his cross examination has accepted that he did not know that the service of any junior to him was regularised after his termination. He has also admitted that he did not know whether the copy of his representation was given to the management or not.

It was further argued that the workman has accepted in his cross examination that he never made any complaint to the authorities against the management. He has also admitted that he never approached any authority of the management for his re-employment after his termination.

It is abundantly explicite from the admissions of the cross examination that no junior to him was regularised in his knowledge and he never approached the management for re-employment and he made no complaint to higher authorities.

The learned counsel for the management said that he knew it very well that he was working on a project and when the project was over he himself left that place and did not make any complaint or representation after the completion of the project. No junior to him has been regularised it simply indicates that he was working on a project and when the work was over he left the place. That is the reason that he made no representation or complaint to anybody he left the work in 1981 and after 17 yrs. he moved the application. Though the limitation Act does not apply still there must be some reasonable time. The crux of the question is what was he doing for the long 17yrs. The hon'ble Supreme Court has held that limitation Act is not applicable in ID Act but a person who sleeps over his right for long 17 yrs. cannot get any relief. The hon'ble Court directions is about 7 to 8 yrs old cases. Even if the law cited is applicable the workman has admitted that no junior to him had been regularised and he never approached for re-employment goes a long way to prove that he was working simply on a project and when the project was over his work came to an end. There was no question of termination of his services or his retrenchment.

The cases cited by the workman side are not applicable in the facts and circumstances of this case.

In my opinion the workman is entitled to no relief prayed for and termination of his services is legal and he is not entitled to any relief.

R. N. RAI, Presiding Officer

नई दिल्ली, 11 फरवरी, 2004

का. आ. 541.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एंड जयपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम लेबर कोर्ट नं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 14 ऑफ 1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-2-04 को प्राप्त हुआ था।

[सं. एल-12012/9/1995-आई. आर.(बी.-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 11th February, 2004

S.O. 541.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 14 of 1996) of the Central Government Industrial Tribunal/Labour Court-II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman which was received by the Central Government on 10-2-2004.

[No. L-12012/9/95-IR (B. I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,

RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE, NEW DELHI

PRESIDING OFFICER : R. N. RAI

I.D. NO. 14 OF 1996

MR. RAMESH KUMAR

VERSUS

STATE BANK OF BIKANER AND JAIPUR

AWARD

The Ministry of Labour vide its letter dt. 1-3-1996 has referred the following point for Award.

"Whether the action of the management of State Bank of Bikaner and Jaipur in terminating the services of Shri Ramesh Kumar son of Shri Suren Mandal w.e.f. 18-3-1994 and also not regularizing his services is fair and justified? If not, what relief the concerned workman is entitled to?."

That the claimant has filed the statement of claim. He has stated in his statement of claim that he was working as a peon from 1-10-1988 on Rs. 375/- per month. The Manager was not giving him payment either according to permanent employee but he was given minimum wages as prevalent in Delhi. In this way, the employers has kept him as a bonded labour.

He has further stated that his service record is good. The employers have never objected to or complained against the work of the employees. They did not make service record of the employee neither they had given the appointment letter. They were not maintaining GPF, ESI so the workman became the member of the union. The employee became inimical to him. They always kept him on daily wages and made the payment on voucher. He did the work of the peon. He was not a water filler.

That a proposal was passed on 1-11-1993 to make him as a permanent employee . The union brought the matter before the employers but the employers instead of making him permanent employee, they terminated his services on 18-03-1994.

That in the employer's institution, more than 100 employees worked . The Standing Order is effective. The employers did not make the list of seniority according to the ID Act. They always kept the employees temporary so that they may remove the employee at their will and this comes under the unfair practices of the ID Act.

That under 25(F) of the ID Act without giving notice, the employee cannot be removed because he has worked for more than 240 days. Before the Reconciliation Officer, the matter went but the employers did not agree to reinstate him. He is out of employment at present.

The Opposite Party has stated in his written statement that the claimant was not the workman of the bank. No letter of appointment had been issued to him.

That para 1 of the claim is wrong. Hence denied.

That the facts put up by the claimant are contrary to the record. the claimant was never appointed, at the post of a peon as claimed. The claimant was given a contact for filling up water containers. Since no particulars of the Branch has been given, therefore, the Management reserve its right to give a detailed written statement.

There were no fixed duty hours, he was free to come and go after filling the water containers kept in the Bank, and there after was free to go or do what he wished. Since his contract included only filling up of the containers, for which he was paid contractual money. He was never paid a salary, by the Bank.

The Bank as such has no records on him. He always kept the water containers filled.

That para 3 is wrong, hence is denied. Since he was never an employee of the Bank, no service records were kept. However, the Bank has kept records, for the purpose of payment of his contract money. It is a practice of the Bank that they pay labour charges/transport charges etc. on vouchers, since the work was of a temporary nature, and for a limited period. It is wrong that the claimant used to serve water, tea etc. to be staff. The Bank had never given any such instructions to the claimant. Nor was he ever instructed to move or carry files from one table to the other, if he did so it was out of his own wish and desire.

It is denied for want of knowledge that the claimant was a member of the Union, and any demand notice was sent to the management. The management has not received any demand notice from the claimant or from the union. The claimant abounded his above mentioned work, on his own, hence the Bank made alternative arrangements for filling water. The rest of the para is a matter of record.

Para 5 is wrong, hence is denied. The Bank is governed by the Banking Regulation Act and the provision of Shastri Award and other Bi-partite settlements are applicable in the case. Since the claimant was not an employee of the Bank, nor was he a member of Bank Employees Union. The Model Standing Orders are not applicable in his case.

Para 6 is wrong hence is denied. The management has a record of all their employees, except those on daily wages, mainly those whose hours of work are not fixed, as in the present case. Hence it is wrong to say that the bank has violated any provisions of the Act, as stated in the claimant statement.

The workman abandoned his job. There was no reason to call him back, or wait for him, Since as per the claimants job, none of the provisions of the Act apply to him, as claimed.

It is wrong that the Management did not cooperate with the Labour Department. Rest of the para is a matter of record.

Para 9 is wrong, hence denied. It is also denied for want of knowledge. The claimant has not made any efforts and to that effect has not put up any records.

It is, therefore, prayed that the claim of the claimant be kindly dismissed.

Heard argument from both the sides. The learned counsel for the workman argued that the points that have been raised by the Management have not been proved by any oral evidence. In written statement dt. 20-08-1996 it has nowhere been said that the workman was employed for only filling water in the cooler. It has been raised for the first time in the written argument whereas the workman in his statement of claim has specifically mentioned that his

work was to cater tea etc. to the officials and to take files from one table to another table. No document has been filed by the management. So the workman cannot be said to be the casual worker. No witness has come to give oral evidence.

It is further argued that it is the duty of the Management to produce the documents to the satisfaction of the Court that the work assigned to the workman was only for filing water in the cooler. It has been further submitted that from 1-1-1988, the workman has worked for more than 240 days every year . The other side has not given any oral evidence against the evidence of the workman. The workman has annexed documents exhibit WW 1/1 and WW 1/2 to make his services permanent. Aggrieved with this, the management removed him from service it has been accepted that the payment was made through cheque and the workman worked only for the Managers and the workman has to depend on the direction of the authorities of the bank.

The Management has also filed written arguments. It has been submitted that he was a casual labour kept to fill water in the coolers. His payment was made on vouchers. He has not summoned any record. The management has no control over the working hours of the claimant. He never marked his attendance. He never protested prior to the date of rasing the dispute because in the month of March and April, the management contacted him and kept him for filling water coolers only during the season. It is an admitted case of the workman that he was a casual worker to fill up the coolers during the season . It does not bring him under the category of employees. He has admitted that he never worked for 240 days during one calendar year. He was not working under the Contact Labour Act, 1970. The Management has submitted that he was simply a casual water filler and he worked during that season so paymem to him was made by vouchers. The workman has not filed any application to summon the documents to show that he was a temporary employee. He was paid only 375 hours per month.

The learned counsel for the workman submitted that the pleadings of the management have not been proved as no oral evidence has been adduced . As such the claim of the claimant should be deemed proved by the affidavit and the evidence of the workman.

The workman has filed photo copies of documents. Letter dated 26 April 1993 shows that he worked on 15 March and 15 Sep on 02-06-1992 he was paid Rs. 375 by cheque in July 1992 . This paper has been admitted, on 01-09-1992 Rs. 383 was paid by cheque. This paper has also been admitted. In 1992 again he was paid Rs. 375 by cheque . This paper has also been admitted on 02-11-1992. He was paid Rs. 375 by cheque . This paper has also been admitted . On 06-01-1993 he was paid Rs. 390 through cheque. This paper has also been admitted . On 01-02-1992 he was again paid Rs. 407/50 on 07-12-1992 and again he was paid Rs. 183 on 04-02-1993. He was paid Rs. 208 on 04-02-1993 on 03-03-1993 he was paid Rs. 360 through cheque and again on 06-04-1993 he was paid Rs. 375 through cheque. On 10-05-1993 he was paid Rs. 360 through cheque on 05-06-1993. He was paid Rs. 390 and on 03-07-1993. He was again paid Rs. 375 through cheque on 06-08-1993. He was paid Rs. 390 through cheque on 04-09-1993. He was paid. Rs.345 through cheque . Again he was paid in 1993 Rs. 390. On 02-11-1993 he was paid Rs. 360 through cheque. On 05-12-1993 he was paid Rs. 375 through cheque on 04-01-1994 he was paid Rs. 390 through cheque on 02-02-1994 he was paid Rs. 375 through cheque on 03-03-1994 he was paid Rs. 360 through cheque . The learned counsel of the bank has admitted all aforesaid photo state copies of the cheque as such these paper have become admissible in evidence . These papers go a long way to prove that at least from 02-06-1992 upto 03-03-1994 regular payments have been made to the workman by the bank through cheque . The period of the cheques mentioned above establish beyond any IOTA of douht that at least from July 1992 to 03-03-1994 the workman worked in the bank. There is no evidence that he was daily wager. The case of the management that he was kept for of filing the water coolers fails miserably. The payment through cheque explicitly establishes that the workman has work continuosly from 1992 to 03-03-1994 and he was removed from service on 18-03-1994. In view of the above facts it became crystal clear that the workman has worked regularly for more than 240 days and he deserves to be reinstated from 18-03-1994 with at least 50% back wages because the workman may be working somewhere else. There is no definite evidence regarding that.

In view of the above discussion the reference is replied thus .

The action of the management of the state bank of Bikaner and Jaipur in terminating the service of Sh. Ramesh Kumar S/o of Sh. Suren Mandal w.e.f. 18-03-1994 and also not regularising his services is neither fair nor juistified. The workman is entitled to be reinstated in service w.e.f. 18-03-1994 and he is also entitled to receive 50% back wages. Award is given accordingly.

R. N. RAI, Presiding Officer

नई दिल्ली, 11 फरवरी, 2004

का. आ. 542.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम लेबर कोर्ट-II, नई दिल्ली के पंचाट (संदर्भ संख्या

आई.डी. नं. 37/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-2-04 को प्राप्त हुआ था।

[सं. एल-12012/154/95-आई. आर.(बी.-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 11th February, 2004.

S.O. 542 .—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 37/1997) of the Central Government Industrial Tribunal/Labour Court-II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen which was received by the Central Government on 11-2-2004.

[No. L-12012/154/95-IR (B.-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,

RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE, NEW DELHI

I.D. NO. 37/1997

PRESIDING OFFICER : R. N. RAI

IN THE MATTER OF :

RAM SWAROOP

VERSUS

STATE BANK OF INDIA

The Ministry of Labour vide its order dt. 05-03-1997 has referred the following point for adjudication..

> "Whether the action of the management of State Bank of India, Zonal Office, Meerut in canceling the offer of appointment for the post of Mali issued vider orders dt. 20-05-1994 being found over-age in respect of Shri Ram Swaroop is just and legal. If not, to what relief the workman is entitled to?."

The claimant in his statement of claim has stated that the applicant workman was regularly and validly appointed in the bank as a Water Boy-cum-Water fetcher w.e.f. 17-5-1983 against regular vacancy and he joined his duty without any delay. His working was perennial in nature as there was no arrangement for drinking water in the office.

The applicant workman performed his duties till 20-02-1993 and he was retrenched from the work without compling with the provisions of Section 25-F of the Industrial Disputes Act, 1947. No reason has been assigned and no notice for payment of compensation has been given to him.

It has further been submitted that he performed his duties for more than 240 days. He performed the duties of IVTH class employee but the employer did not pay him wages and other benefits equal to the regular employees whereas the working hours are the same. He did the work of messenger, Farrash etc. The provisions of paras 493, 495, 507, 516, 519, 522 and 524 of Shastri Award and bipartite settlement have not been observed prior to or after termination of the services. It has been further submitted that the termination of his services are illegal and unjustified.

That the applicant workman has not studied anywhere so he was not able to produce the date of birth certificate or evidence except his affidavit on which he was not believed. It has been further submitted that he obtained the certificate regarding his age from Chief Medical Officer. Thus, he complied with the orders of the bank but he was not permitted to join as he was overage and his appointment was cancelled.

The Opposite party has filed written statement. It has been stated in the written statement that only offer of appointment was given vide letter dt. 20-05-1994 and the applicant did not comply with the offer given to him so he cannot gave employment. There was no master and servant relationship between the workman and the employer. He was never appointed in the employment of the management bank. The claimant used to bring drinking water to the bank at Zonal Office, Meerut and he was paid as agreed. He used to supply drinking water and he pulled Rickshaw and earned his livelihood so he was not in any sense water-boy-cum-water fetcher w.e.f. 17-5-1983. He was never employed in the employment of bank regularly and continuously as alleged. The supply of drinking water is a perennial job. It is wrong to say that without any interruption, the claimant worked continuously upto 20-02-1993. There was no violation of Section 25(F) of Industrial Dispute Act as alleged. There was no retrenchment at all and as such Section 25(F) is not attracted in the circumstances of this case. The allegations are wholly irrelevant, and extraneous. He has not worked for more than 240 days.

It has further submitted that the Award and bipartite settlement are not attracted in the facts and circumstances of the case. The bank has got a policy of recruitment for absorption of temporary employees and in pursuance of those provisions for absorption of employees and advertisement was issued inviting application from the eligible candidates on 1-5-1991. The claimant was not eligible in age apart from the other conditions. The prescribed age was 18 to 26 years for absorption subject to vacancies. The applicant did not disclose his correct age at the time of his interview on 8-10-1992 The selected persons were empanelled and as and when the vacancy arose, the appointment were given according to the seniority in the list of panel. The applicant was also give an

offer on 20-05-1994. He did not comply with the terms and conditions of the offer. His age according to Chief Medical Officer Certificate was 48 years. Since the claimant was not eligible and overage, he could not be given appointment in the bank. The claimant has made various statements regarding his age. He further submitted that employment was as per the agreements and as advertised dt. 1-5-1991 was for menial cadre includes Mali, Sweepers, General servants, Frash etc. He did not apply specifically for the post of Mali. His appointment was not for the post of Mali. He was not given employment as he did not fulfill the conditions regarding his age. He was overage. His age was 48 years on the date of offer.

The workman applicant has filed rejoinder. In his rejoinder, he has stated that for the post of Mali, there was no age limit and he was interviewed for the post of Mali and his name was included in the panel list. The objections of the Opposite Party are not tenable since he has been empanelled and he was found fit for the post of Mali and when vacancy arose, offer was given to him but his application was not considered only on the ground of age. Heard the arguments from both the parties and perused the records. It is admitted that his age was 48 years on the date of offer but he has submitted a chart and from the perusal of the chart, it becomes evident that he was in employment from 1-1-1986. He has worked from 1-1-1986 to 2-3-1991. Though these paper have not been admitted by the Opposite Party, but in a proforma of application, the date of initial temporary appointment has been given as 17-5-1983. This application was considered that is why his name was included in the panel of the employees to be regularised or made permanent. He has submitted copy which shows the paymant made to him. It was further argued that he has filed cheques through which he has made payments right from 23-3-1991. As such he was under the employment of the bank, he has also given a chart of his work from 1991 to 23-3-1993. That paper has not been changed. As such, in view of this paper, it becomes obvious that he was an employee whether a daily wager or a casual worker but he worked for the bank.

The learned counsel for the Opposite Party argued that his date of birth as given in the application was 31-1-1959 and when he was examined medically by the Chief Medical Officer, he was found 48 years of age.

It was also argued that he has given the application for loan to the State Bank of India and in it he has shown his nature of operation as puller of the rickshaw. He has put his signatures. His signatures tallies with the signatures on the other papers. It was argued that though he was employed in the bank and he worked in the bank but at the best, he was a part time employee.

My attention has been drawn to (2000) 1 UPLBEC 312. This decision is not applicable in the facts and circumstances of this case. In FLR 1985, the Hon'ble Supreme Court of India has observed that preference should be given to the displaced employee. In II LLJ-1994, it has been observed by the Hon'ble High Court of Gujarat that if the candidate is selected but he is not employed due to ban of recruitment, that is not legal. IN AWC page 1-287, 1996, the Hon'ble High Court of Allahabad has observed that the petitioner after medical check-up was found fit, then he should be given employment. It has been observed in AWC 1996 Page 286 that petitioner has found right of work. Once the work offered by authorities covered under Article 12 and conditions fulfilled, the petitioner becomes entitled to appointment. Thus, laws stated by the learned counsel for the workman are not applicable in the facts and circumstances of this case. The first point to be considered is whether he was under the employment of the bank or not. In case he was not under the employment of the bank, he was a daily wager and there is no age limit for daily wager. In advertisement, there is no post of Mali hence the argument of the learned counsel for the workmen is not tenable though he was selected for the post of Mali. He did not fulfill the conditions as given in the advertisement. His age was 48 years at the time of offer of appointment, whereas the age prescribed was 18 to 26 years though he worked in the bank for some time, but as daily wager and age of daily wager is not considered but when regular appointment is offered, the age becomes material. Even if his age when he started worked in the bank is considered he was overage at that time also. I find no merit in the statement of claim and rejoinder of the claimant. His claim is not tenable and the law cited by his learned counsel do not apply in the facts and circumstances of the case.

48 years old person even though named in the panel cannot be absorbed. The requirement regarding age has not been fulfilled by this workman. He may have worked as part time worker in the bank but in his own paper for loan, he has admitted himself to be a rickshaw puller. As such, he has failed to establish his case and he is not entitled to get absorbed.

In view of the above discussions, the reference is replied thus.

The action of the Management of State Bank of India, Zonal Office, Meerut in cancelling the offer of appointment for the post of Mali issued vide orders dt. 20-05-1994 on being found overage in respect of Shri Ram Swaroop is neither just nor legal. The claimant workman is not entitled to any relief prayed for.

Dated:- 03-02-2004

R. N. RAI, Presiding Officer

नई दिल्ली, 12 फरवरी, 2004

का. आ. 543.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.ई.सी.एल. प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एलसी.(आर) (67)/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-04 को प्राप्त हुआ था।

[सं. एल-22012/450/1994-आई. आर.(सी.-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th February, 2004

S.O. 543.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC(R)(67)/95) of the Central Government Industrial-Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of S.E.C.L. and their workmen, which was received by the Central Government on 11-2-2004.

[No. L-22012/450/1994-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL DISPUTE-CUM-LABOUR COURT, JABALPUR

PRESENT:

Shrikant Shukla, P.O.

ID Case No. CGIT/LC(R)(67)/95

BETWEEN

President
Bharatiya Khadan Mazdoor Sangh
Madhya Pradesh
Qr. No. M/237, Urja Nagar,
Gevra Project,
Distt. Bilaspur

AND

Chief General Mananger
S.E.C.L., Gevra Area
Distt. Bilaspur.

Government of India, Ministry of Labour, vide Order No. L-22012(450)/94-IR C-II dtd. 2-5-1995 has referred the following issue for adjudication to Presiding Officer, Central Government Industrial Dispute Tribunal, Jabalpur.

"Whether the action of the management in practicing discrimination while making deduction from the wages of ministerial staff working in GM Office, Hospital, Civil Station, RG. Store, & not from the wages of workmen employed in Gevra, Deepka Projects is legal & justified: If not, what relief are the concerned employees workman entitled to?."

Bharatya Khadan Mazdoor Sangh (who will here in-after called as Sangh) filed the statement of claim alleging the stoppage of deduction from the salary of the employees on the following grounds :

(1) Within the jurisdiction of Chief General Manager, various projects, establishments, such as Gevra Project, Deepka Project, Deepka Extension, Regional Stroes, Iospital, Office of the General Manager, etc., are controlled. The ministerial staff and other employees were expected to work for 6½ hours in a day from the very beginning. Subsequently, on division of Korba Region, the working hours of the employees were 6½ hours per day and there after the employees were working as such for 6½ hours a day.

(2) The working hours of employees were not extended beyond 6½ hours but the Chief General Manager (Management) increased the working hours from 6½ to 8 hours. per day without notice to the Sangh, vide letter No. SECL/GM/Gevra Area/GM/92/991 dtd. 5-9-1992. Protesting the said action of the management, S/Shri R.B. Sharma, C.L. Sahoo and the members of other ministerial staff filed a writ petition in the High Court, Jabalpur (MP).

(3) In spite of the pendency of the said writ petition the Chief General Manager, Gevra Area deducted the salary of its employees to the tune of 2 hours per day.

(4) It is pointed out the employees of Head Office, SECL, Bilaspur, are working for 6½ hours per day but their wages are not deducted. Similarly, in the establishment of Korba (East), the working hours are fixed as 6½ hours in a day.

(5) In cases of the workers working in the office of Chief General Manager, the Salary was deducted as a result of increase in the working hours but no sooner they are transferred, the deduction from their salary is exempted.

(6) The above conduct of the management is discriminatory, unjustified and unfair.

(7) In the circumstances, the Sangh, has prayed that the deduction of the salary as a result of increase in the working hours be stopped and deducted amount be paid by the management of opposite party to the concerned employees.

(8) The management has filed the written statement and has challenged the order of reference by stating that the same is illegal, bad in law and liable to be rejected.

(9) It is also stated that there was no deduction from wages as alleged by the Sangh. So far, the written

petition filed in Hon'ble High Court of MP at Jabalpur is concerned, it has been submitted that the union has filed the writ petition and the said writ petition is pending for decision. In the mean time, the Union has raised the same issue before Conciliation Officer and as the matter is pending for decision before the Hon'ble High Court reference made to this tribunal is liable to be rejected.

(10) In addition to the said writ petition, the employees have also filed a case No. 14/IDA/93 before the State Labour Court at Bilaspur, which is also pending for decision. As the Union has exercised all the forum available to them filing various petitions before all the Court of law on one and the same cause of action, the present reference on the same cause of action is liable to be rejected.

(11) The Coal India is a Govt. of India Company having Headquarters at Calcutta. The Coal India has various subsidiary companies such as WCL, BCCL, ECL, CCL and CMPDIL. Before nationalisation of the Coal Mines in India in 1973, Coalmines were owned by various private owners. Before nationalization, BCCL, was functioning as a separate Company. There was another Company namely Coalmines Authority of India Ltd., having various divisions such as—Central, East, West etc.

(12) WCL had its collieries spread all over Madhya Pradesh & Maharashtra for the administrative convenience and due to formation of new collieries, the WCL was divided into two companies namely WCL & SECL. The SECL has formed in the year 1985 as a new Company. the entire collieries situated at Korba are under the SECL. Due to formation of new collieries at Korba, the Korba Area was bifurcated as Korba East & Korba West in 1987. Subsequently, the Korba West again bifurcated as Kusmunda Project and Gevra Project in 1992.

(13) The Service conditions of employees employed in the Coal Industry are governed by the recommendations of the Central Wage Board for the Coal Mine Industry as accepted by the Government of India and made applicable w.e.f. 15-8-1967.

(14) That the Coalmines are governed by various Mines legislation's such as Mines rules, Mines Act, and Mines regulations. Apart from the Mines legislations all the law relating to labour have been specified about the working hours. An employee is bound to work for 8 hours in a day and 48 hours in a week. If any concession of working hours are given to the employee for the time being it cannot be taken into granted as a matter of right by the employees. As the employees are bound to work for 8 hours. the Management is at their sweet will to take work from the employees to the extent of the said time limit.

(15) As soon as the new Area was made the working hours of the employees working in the Area have been fixed as 8 hours as per the provisions of the law of the land. As stated above in preliminary objection, the employees of the Project filed a petition No. 3216 of 1992 came up for hearing before the Hon'ble High Court of Madhya Pradesh. The High Court by hearing the petition passed the following interim order—

"In the meanwhile the workers may continue to work under the existing circular without prejudice their right for overtime"

(16) All the employees working in the project are duty bound to do their work for 8 hours in a day. However, the employees refused to work for 8 hours. Accordingly, the Management were forced to pay the wages to the extent of the hours the employees discharged their duties. Therefore, there was no deduction as alleged.

(17) Looking on all corner around the action of the management in fixing the working hours for 8 hours is not only justified but the law permits to do so. There must not have been any grievance on the part of the union for an action taken with a view to development and prosperity of our nation rather which are required for the day to day life of the human life. It was expected from the union and employees that they will extent their hands for the development of our nation by producing more and more coal which are required for generation of power as well as various other manufacturing units like—Cement Steel and various other goods required for day to day life of the human being.

(18) In view of the above facts and circumstances it is submitted that the action of the management in fixing the working hours as 8 hours in a day and 48 hours in a week are legal, proper and as per the law and therefore justified.

(19) As stated above there was no deduction from wages as alleged by the Union. The Union has tried to misguide this Hon'ble Tribunal by submitting false statement. In fact the employee were paid as per the work done by them. If the employee worked for 6½ hours in a day obviously

they are entitled for the wages to those hours only. The claim of the employees for the wages of 8 hours after working 6½ hours is highly unjustified, impermissible and illegal.

(20) It is, therefore, submitted that this Hon'ble be pleased to hold that the action of the Management in fixing the working hours as 8 hours a day is legal, proper, and in accordance with the law. It may be further hold that there was no deduction from the wages ad alleged but the employees were paid as per the work done by them.

(21) It is, therefore, prayed that this Hon'ble Tribunal be pleased to hold that the action of the Management in fixing the working hours as 8 hours in a day is legal, proper and in accordance with the law. It may be further hold that there was no deduction from the wages as alleged but the employees were paid as per the work done by them. It may be further hold that the action of the Management is legal and proper and the union is not entitled to any relief whatsoever in the interest of justice.

(22) Sangh has filed Rejoinder. It is submitted in the Rejoinder that the issue was raised regarding deduction of salary but the main issue is that the ministerial staff could be forced to work for 8 hours in a day where as they have been working for 6½ hours in a day for the last 20 years.

(23) It is also submitted that the workers involved in the production have different working hours and their working hours are 48 hours in a week but the same is not applicable to the ministerial staff who are engaged in the Offices, Hospitals, Stores and other Civil departments.

(24) Thus it is clear that the main issue is as to whether the increasing the working hours of the workers is justified or not? Therefore, the issue which is to be decided shall be whether the Management was justified in increasing the working hours from 6½ hours in a day to 8 hours in a day.

(25) During the course of proceedings the Singh and the Management have entered in to a settlement and the Memorandum of Settlement has been filed before the Tribunal in Form 'H' which is paper No. 122 to 124.

(26) The contents of compromise is as follows (page 122 to 124) :

1. That during the time of erstwhile National Coal Development Corporation (NCDC), the working hours in the Office of General Manager, Korba were as follows :

10.00 A.M. to 1.30 P.M.	: Working hours
1.30 P.M. to 2.00 P.M.	: Lunch hours
2.00 P.M. to 5.00 P.M.	: Working hours

2. After nationalization of Coal Mines the above working hours were continued in respect of employees who were appointed prior to nationalization. After nationalization of Coal Mines, working hours in respect of employees were fixed as 8 hours whereas the erstwhile employees of Ex. NCDC were continued as Six & half hours.

This created a dispute culiminating in to a reference to arbitration by Shri S.N. Pandey, the then Director (P), TISCO and Shri Shivbaran Singh, President BMS. The arbitrators have given an award circulated by the then DY. CPM (IR), Nagpur vide No. 4084-87 dated. 5/7-9-1978, the operative part of which is reproduced below :

"However, considering the circumstances, as narrated in the foregoing paragraphs, I feel that I will be fair that so long these ministerial staff are working in establishments in Korba Area, the Central Workshop of WCL, they will fall in line with all other ministerial staff working in their establishments and observe the same normal working hours".

3. That Korba was further bifurcated in January, 1987 into two Areas i.e. Korba East and Korba West. There after Korba West Area was further bifurcated into Kusmunda and Gevra Area w.e.f 1-9-1982.

At the time of establishment of new Area viz. Kusmunda and Gevra Area, their working hours were fixed as under :

9.00 A.M. to 1.30 P.M.	: Working hours.
1.30 P.M. to 2.00 P.M.	: Lunch hour.
2.00 P.M. to 5.30 P.M.	: Working hours.

4. That the employees working in Gevra Area were aggrieved by the above working hours which further resulted into dispute raised by BKMS Union of Gevra Area which is listed as reference Case No. CGIT/LC/R/67/95 with the following terms of reference.

"Whether the action of the management in practicing discrimination while making deduction from the wages of Ministerial staff working in GM Office, Hospital, Civil Station, RG. Store and not from the wages of workmen employed in Gevra, Dipka Project is legal and justified ? If

not, to what relief are the concerned employees entitled to?"

All other Trade Unions of Gevra Area have also raised a dispute before the Management for uniform working hours i.e. Six and half hours in the office of the Chief General Manager, Gevra Area, at par with the Area office of CGM, Korba Area in view of the fact that Kusmunda and Gevra are part and parcel of erstwhile Korba Area. Since the negotiations were held with the above unions and in view of the fact that the issues are pending before CGIT, Jabalpur, as referred above.

The parties to the disputes arrived into the following settlement:

TERMS OF SETTLEMENT

1. That hence forth i.e. from the date of publication of the Award by the CGIT working hours in the office of the Chief General Manager, Gevra Area including Hospital, Civil Section, Regional Stores, will be as that of Korba Area as follows:

10.00 AM to 1.30 PM : Working hours Monday to Friday.

1.30 PM to 2.00 PM : Lunch hour

2.00 PM to 5.00 PM : Working hours

10.00 AM to 1.30 PM : Working hours Saturday.

2. That the Union viz. BMS will not pursue the case pending in CGIT, Jabalpur and will request CGIT for passing a "No Dispute Award" after submitting a copy of this settlement.

3. This will have prospective effect, and no one will have any claim for back wages/arrears/refund or any other monetary benefits with retrospective effect.

4. The union will not raise any dispute regarding any working hours in any other Areas of SECL treating this as a precedent.

5. This is in full and final settlement between the parties on the issues.

27. From the above settlement, the parties have decided the following working hours for the office of CGM, Gevra Area, Hospital, Civil Section, Regional Stores.

10.00 AM to 1.30 PM : Working hours Monday to Friday,

1.30 P.M. to 2.00 P.M. : Lunch hour

2.00 P.M. to 5.00 P.M. : Working hours

10.00 A.M. to 1.30 P.M. : Working hours Saturday.

28. It is also settled by the parties that the Union viz. BMS will not pursue the case pending in CGIT, Jabalpur and request CGIT for passing a "No Dispute Award" after submitting a copy of settlement.

29. It is also settled between the parties that the settlement will have prospective effect and no one will claim for back wages/arrears/refund or any other monetary benefit with retrospective effect.

30. Lastly the parties have settled not to raise any dispute regarding any working hours in any other Areas of SECL treating this as a precedent.

31. The above referred Memorandum of settlement has been verified by me by the signatories of the management and the unions. The Memorandum of Settlement disposes the entire issue and there seems to be no dispute about working hours between the parties.

32. Since the issue has been settled by the parties themselves and therefore, the issue referred is not to be adjudicated any more by the Tribunal. As such, the reference is un answered and the Memorandum of Settlement paper 122 to 124 shall be form of the Award.

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 12 फरवरी, 2004

का. आ. 544.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एफ.सी.आई. प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद नम्बर 1 (संदर्भ संख्या 115/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-02-04 को प्राप्त हुआ था।

[सं. एल. 22012/531/1995-आई आर (सी-2)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th February, 2004

S. O. 544.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 115/1996) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad No. 1 as shown in the Annexure, in the industrial dispute between the management of F.C.I. and their workmen, received by the Central Government on 11-02-2004.

[No. L-22012/531/1995-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, DHANBAD.

In the matter of a reference under Sec. 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 115 of 1996

Parties : Employers in relation to the management of Food Corporation of India, Patna.

AND

Their Workmen.

Present : Shri B. Biswas, Presiding Officer.

Appearances :

For the Employers : Shri S.K. Jha, Representative of the management.

For the Workmen : Shri U.K. Dubey, Regiona. Secretary, F.C.I. Employees Union, Patna.

State : Bihar. : Industry : Food.

Dated , the 22nd January, 2004.

AWARD

By Order No. L-22012/531/95-I.R. (C-II) dated 18-10-96 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Industrial Disputes Act, 1947, referred the following dispute for adjudicaiton to this Tribunal :

> "Whether the action of the management of Food Corporation of India, Patna in not regularising the services of Smt. Motiya Mosomat & Laxman Sahani in the grade they are working is justified and legal? If not, what relief the workmen are entitled to?"

2. The case of the concerned workmen according to the written statement submitted by the sponsoring union on their behalf, in brief, is as follows :

The sponsoring union submitted that the concerned workmen were employed by the management at Food Storage Depot Gulabhagh/Belauri (Purnea) to perform the duties of subordinate cadre as casual workers since before May, 1986 regularly. They submitted that the services of the concerned workmen were utilised in performing different works in the godown and their salaries are paid on the basis of monthly bills. They disclosed that the Board of Directors of F.C.I. in 176th Meeting held on 24-2-87 decided that the services of all casual/daily rated employees who were on the roll of F.C.I. and have completed three months work on or before 2-5-86 will be regularised against entry level category-III & IV post according to their qualification. Such decision was conveyed to all subordinate offices for its execution vide Headquarter circular/letter issued under Reference No. EP-1 (4)/86-Vol-II dated 6-5-87 and in accordance with the aforesaid decision more than hundred casual/daily rated employees had already been regularised in their service as Watchmen by the Regional Manager, F.C.I., Patna. They submitted that the concerned workmen were also eligible to get their regularisation as Class-IV staff as per circular dated 6-5-87 but their services have not yet been regularised though they have fulfilled all their conditions due to arbitrary act on the part of the management. They further disclosed that several juniors who were employed in the Corporation on the same footing much later than the concerned workmen, have already been regularised against the post of Watchman. As the management due to their arbitrary act ignored to regularise the concerned workmen as Class-IV staff they have been deprived of getting their wages and other benefits of Class-IV employees though they are discharging same duties of Class-IV workmen which amounts to violation of rule of equal pay for equal work. As the management refused to consider their prayer for regularisation as Class-IV Staff they raised an industrial dispute which ultimately resulted reference to this Tribunal for adjudication.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsored union asserted in the written statement submitted on behalf of the concerned workmen. They submitted that they have their own food storage depot at Beluri, Purnea and hired another depot at Gulabbagh, for storage of foodgrains. The Food Storage Depot at Gulabbagh was dehired in 1990 and only depot continued to function after 1990 is Beluri which is a permanent depot of the Corporation. They disclosed that they had awarded contract to private parties from time to time for the jobs of transportation of foodgrains storage and handling of the same in food storage depot and for carrying on incidental jobs connected with procurement, transportation and storage of foodgrains as well as issue of foodgrain from the food storage depot. They further disclosed that they had deployed sufficient number of Class-III and Class-IV workmen to effectively supervise the jobs connected with the depot. The Class-IV personnel in the grade of watchman, stitcher, shifter, sweepers were sufficient in number and no vacancy existed on any such Class-IV post. There was no sanctioned post of messenger in the depot. For the purpose of carrying and bringing drinking water and filling the pitchers casual labourers were engaged as water carrier and they were also utilised for performing the incidental jobs of messenger. In that connection three casual workers were working as casual water carrier and were also performing the jobs of

messenger and those three workmen were regularised as Class-IV employees after the circular dated 6-5-87 was issued by the management. They, were regularised in the year 1988-89 and there was no requirement of engagement of any class-IV employee in any of the depots. It has been further submitted by them that after dehiring of the depot at Gulabbagh even permanent workmen became surplus and the demand of regularisation of the concerned workmen did not arise. As there is no vacancy against which casual workman can be regularised. They further disclosed that as none of the concerned workmen were deployed against permanent vacancy on permanent and regular basis the question of their regularisation did not arise. They submitted that the concerned workmen were deployed as casual workers as and when basis. Actually they were engaged in fumigation jobs which are carried on at intervals of 3-6 months and during some pick period when more materials are transported and there was requirement for sweeping the foodgrain thrown at different places and for its collection and filling in the bags. Thus there was no fixed job for the workmen concerned to perform. Moreover after closure of Gulabbagh Food Storage Depot the requirement of casual labour has become very much reduced and there was no scope for providing regular employment to these workmen. They further submitted that the concerned workmen did not possess the requisite qualification and did not fulfil the conditions for their regularisation as per circular dated 6-5-87 and for which they are not entitled to get any relief under the said circular. Moreover, the Central Government has passed the order in terms of the provisions of Food Corporation Act banning employment of any person and the question of regularisation of workmen after imposition of ban against creation of new post and employment of any person to fill in any vacant post, the circular dated 6-5-87 stands automatically withdrawn. Accordingly, there exists no circular under which casual workers can claim for their regularisation. In view of the facts and circumstances stated above the management submitted that they did not commit any illegality and took any arbitrary decision in not regularising the concerned workmen as Class-IV staff and accordingly submitted prayer to pass award rejecting the claim of the concerned workmen.

Points to be decided

4. "Whether the action of the Management of Food Corporation of India, Patna, in not regularising the services of Smt. Motiya Mosomat and Laxman Sahani in the grade they are working is justified and legal? If not, what relief the workmen are entitled to?"

Finding with reasons

5. From the record it appears that the management in order to substantiate their claim have examined two witnesses, i.e. MW-1 and MW-2, while the sponsoring union examined one of the concerned workmen as MW-1 with a view to substantiate their claim. MW-1 during his evidence disclosed that the concerned workmen have been engaged to perform casual nature of job. No regular work has ever been allotted to any of these workers. He further disclosed that the minimum qualification for Class-IV staff is Class-VII Standard and they are appointed by way of selection in interview on being recommended by Employment Exchange. During cross-examination this witness admitted that before his joining to the depot of the Corporation in question the concerned workmen were engaged by the Corporation.

He further admitted that during his tenure he used to pay wages to the concerned workman month-wise on the basis of bills prepared for them. This witness further disclosed that during his tenure which lasted for 3 years and months the concerned workmen worked under him continuously. MW-2 who was a member of the Committee formed by Senior Regional Manager held on 29-4-88 being Chief Labour Inspector, during his evidence disclosed that the Committee did not recommend the name of the concerned workman for regularisation as they did not fulfil the criteria fixed for their regularisation/absorption.

The criteria were :—

(i) They must have completed three months service as on 2-5-86;

(ii) They must be casual employees; and

(iii) They must have passed Class-VII examination.

In course of that Committee meeting all papers submitted on behalf of the concerned workmen were considered in the matter of regularisation of their services. However, thereafter this witness submitted that he failed to recollect if all the requisite papers were furnished before the Committee for consideration of the prayer of the concerned workmen in the matter of their regularisation. The concerned workmen, on the contrary, during his evidence disclosed that since 18-20 years he is working at F.C.I., Belauri as casual worker being engaged by the management continuously. As part of his duty not only he opens the depot office but also supplies drinking water to the staff, sweeping godown, spray chemicals in the godown etc. He further disclosed that for last 18-20 years he is working under the management for more than 240 days in each calendar year and he receives wages month-wise on the basis of calculation of his days of work performed by him in each month. He submitted that other casual workers who started working with him and who joined after him have already been regularised and during his evidence he disclosed the name of some workmen in this regard he submitted that the management did not regularise him as Class-IV staff inspite of furnishing all particulars to them illegally and arbitrarily.

Considering the evidence of the management as well as of the workmen it transpires that the concerned workmen were deployed as casual workers long back and thereafter they are working at Belauri depot continuously as casual workers and receive wages month-wise on the basis of bills prepared by the management.

6. It is admitted fact that the management issued a circular being No. EP-1(4)/85 dated 2-5-86 to consider regularisation of the services of the workmen who have completed three months service prior to issuance of the circular on that particular date.

7. Considering the evidence of MW-1 it transpires that the concerned workman is working at Belauri depot for a long period as casual worker. It transpires from the record, Ext. W-1/1 that the Asstt. Manager, F.C.I., Balauri Purnia prepared a statement which shows clearly that the concerned workmen, Laxman Sahani and Smt. Motiya Mosamat completed three months of service as on 2-5-86. It has been admitted by the management that as per circular dated 2-5-86 it was decided that the services of all casual workers will be regularised if they completed three months of service and possessing requisite academic qualification. MW-2 during his evidence disclosed that the prayer for regularisation of the concerned workmen was considered and rejected as he failed to fulfil the criteria as per order dated 2-5-86. There are three conditions which require to be fulfilled by a workman before getting his regularisation as Class-IV staff, viz. the concerned workmen must have completed three months of service as on 2-5-86 and they must be casual employees and they must have passed Class-VII examination. It is admitted fact that the concerned workman was engaged at Belauri depot by the management as casual worker. The statement, marked Ext. W-1, shows that he completed three months of servide as on 2-5-86 as casual worker. However, from the statement it appears that qualification of the concerned workman was Class-VI standard. As qualification for regularisation of the concerned workman in Class-IV staff was ear-marked as Class-VII standard automatically the management did not consider his candidature. Similarly, Smt. Motiya Mosomat, another concerned workman, It transpires from the statement marked Ext. W-1/1 that she was illeterate and for which her candidature was not considered by the management for getting her promotion in Class-IV category. Smt. Motiya Mosomat died and inspite of giving opportunity none came forward for her substitute. Therefore, there is no scope at this stage to substitute anybody in her place, in the matter of his regularisation as Class-IV Staff.

Let me consider how far the claim of Laxman Sahani, another concerned workman stands on cogent footing or not. It transpires from the evidence of the concerned workman that he is still working as casual worker and his prayer for regularisation was not considered as he failed to furnish requisite qualification of Class-VII standard. Apart from this fact the representative of the management submitted that they could not regularise the concerned workman, Laxman Sahani as there was a ban for recruitment in view of the order issued by the Central Government. The representative of the concerned workmen relying on the document marked Ext. W-5/2 submitted that in view of the decision taken by the Board of Directors it was decided to relax the ban on recruitment in Category-III and IV staff by considering full-time casual/daily rated employees who have been performing duties of regular employees of the Corporation under FCI (Staff) Regulations, 1971 and who have completed three months period of service as on 2-5-86 and who possess the requisite qualification etc. It has been observed in the said circular that the casual worker who do not fulfil the conditions of appointment for any entry level Category-III & IV posts shall be retrenched by paying retrenchment compensation as required under the provisions of I.D. Act, 1947. The age limit may, however, be relaxed by the competent authority as specified in Appendix-II of the FCI (Staff) Regulations to the extent of service rendered by such casual employees in the Corporation on daily rated/casual basis. Therefore, this decision relating to recruitment of casual/daily-rated employees dated 6-5-87 speaks clearly that the workman who has requisite qualification and who completed three months service before 2-5-86 may be required for regularisation. Similar circular was issued vide No. EP-1(3)/91-Vol-II dated 24-8-92. It is seen that by letter dated 21/24-6-89 (Ext. W-4) the District Manager asked the Depot I/C. to furnish the information in respect of taking further action against the concerned workman alongwith other workmen. Evidence of MW-2 shows that the name of the concerned workman was considered for regularisation but his prayer was rejected as he failed to fulfil the required academic qualification. If the claim of the management is taken into consideration in that case the question which will come up here is why in view of the decision taken by the Board of Director which has been mentioned above the concerned workman was not retrenched from services? Instead of retrenching him from service it transpires that he is still working as casual worker under the management. It is the contention of the representative of the concerned workman that the management regularised the services of the other workmen who joined as casual workers after 1985 and who are very much junior to him. The representative of the concerned workmen also relied on the award passed by this Tribunal in connection with Reference No. 94 of 1995, marked Ext. W-6. Referring the said award the representative of the concerned workman submitted that 24 casual workers were regularised in the services when the management refused to regularise them. I have carefully considered the decision and it transpires that these workmen were retrenched from their services with effect from 1-9-85. There is sufficient reason to believe that such retrenchment was made in view of the circular

issued by the management referred to above. Here in the instant case the concerned workman was not retrenched from his service. On the contrary, though he is discharging his duty equal to that of Class-IV employee since 1985 the management did not consider his case for regularisation. The representative of the concerned workmen submitted that for such equal work he is receiving less wages in comparison to Class-IV staff is not only arbitrary but also it violated the principle of natural justice and equity. In support of his claim the representative of the concerned workman relied in the decision reported in AIR 1990 Supreme Court 371, AIR 1986 Supreme Court 584 and AIR 1982 Supreme Court 879. In the decision reported in AIR 1986 Supreme Court 584 Their Lordhips of Hon'ble Apex Court observed as follows :

> "It must be remembered that in this country where there is so much unemployment, the choice for the majority of people is to starve or to take employment on whatever exploitative terms are offered by the employer. The fact that these employees accepted employment with full knowledge that they will be paid only daily wages and they will not get the same salary and conditions of service as other Class-IV employees, cannot provide an escape to the Central Government to avoid the mandate of equality enshrined in Article 14 of the Constitution. This Article declares that there should be equality before law and equal protection of the law and implicit in it is the further principle that there must be equal pay for work of equal value ..... It makes no difference whether they are appointed in sanctioned posts or not. So long as they are performing the same duties, they must receive the same salary and conditions of service as Class-IV employees."

Again in the decision reported in AIR 1990 Supreme Court in 371 Their Lordhips of the Hon'ble Apex Court observed that workers not possessing initial minimum prescribed educational qualification at the time of appointment—Gaining sufficient experience after many years of service—Confirmation cannot be refused to them on ground that they did not possess requisite qualification—They would be entitled to pay equal to persons appointed in regular basis. In the instant case it transpires that academic qualification for regularisation of services of casual worker was fixed at Class-VII standard by the management. It transpires that the concerned workman passed Class-VI and not Class-VII. With that qualification since 1985 to till date he is discharging his duties as casual worker equal to that of Class-IV staff of the management. No evidence is forthcoming to show that for less qualification of the concerned workman they are suffering a lot to carry on works in the depot. On the contrary it transpires that the concerned workman without any hindrance discharging his duties properly. Therefore, as the concerned workman passed 6th class and not 7th class only for that reason at this juncture when he has acquired sufficient experience there is no scope to say that he should be debarred from his regularisation as Class-IV staff. It is seen just on that ground without giving equal wage with that of regular Class-IV employee the management practically is exploiting his services which I consider not only against the principle of equality but also against the principle of natural justice. Therefore, on consideration of all the facts and circumstances I hold that the concerned workman not only has got sufficient experience to discharge his duties as Class-IV staff but also rendering his service efficiently as there is no adverse remark against him.

8. In view of all the facts and circumstances discussed above. I hold that only for the reason of qualification the claim of the concerned workman cannot be ignored. I consider that he deserves to be regularised as Class-IV staff. As I have already observed that since Smt. Motiya Mosamat has left the mortal world and no substitution has been made in her place, so she is not entitled to any relief.

9. In the result, the following award is rendered—

The action of the management of Food Corporation of India, Patna, in not regularising the services of Laxman Sahani in the grade he is working, i.e. Class-IV post, is not justified. The management is directed to regularise the concerned workman, Laxman Sahani, as Class-IV staff from the date of reference to this Tribunal i.e. 18-10-1996. The management is also directed to implement the award within 30 days from the date of publication of this award in the Gazette of India.

B. BISWAS, Presiding Officer.

नई दिल्ली, 12 फरवरी, 2004

का. आ. 545.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोटा के पंचाट (संदर्भ संख्या 33/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-02-04 को प्राप्त हुआ था।

[सं. एल. 12011/154/2001-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 12th February, 2004

S. O. 545.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2002) of the Industrial Tribunal, KOTA as shown in the Annexure,

in the industrial dispute between the management of Bank of Baroda, and their workmen, received by the Central Government on 11-02-2004.

[No. L-12011/154/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

अनुबन्ध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा/राज.

पीठासीन अधिकारी—श्री मणि शंकर व्यास, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ.न्या./केन्द्रीय/-33/2002

दिनांक स्थापित : 17/7/2002

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश सं. एल. 12011/154/2001 (आई आर)(बी-II)

दिनांक 29-11-2001

निर्देश अन्तर्गत धारा 10(1)(घ) औद्योगिक विवाद अधिनियम, 1947

मध्य

संजय राठौर पुत्र श्री उच्छव लाल
द्वारा संयुक्त महामंत्री, हिन्द मजदूर सभा, छावनी, कोटा।

—प्रार्थी श्रमिक

एवं

रीजनल मैनेजर, बैंक आफ बड़ौदा,
रीजनल ऑफिस, कोटा/राजस्थान

—अप्रार्थी नियोजक

उपस्थिति

प्रार्थी श्रमिक की ओर से प्रतिनिधि :— श्री एन.के. तिवारी

अप्रार्थी नियोजक की ओर से :— एकपक्षीय कार्यवाही

अधिनिर्णय दिनांक : 24-1-2004

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपने उक्त आदेश दिनांक 29-11-2001 के जरिये निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जायेगा) की धारा 10(1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :—

"Whether the action of the Regional Manager, Bank of Baroda, Regional Office, Kota (Rajasthan) in terminating the services of Shri Sanjay Rathore S/o Shri Uchav Lal, Kota w.e.f. 12-9-2000 is legal and justified? If not, what relief the concerned workman is entitled to?"

2. निर्देश/विवाद, न्यायाधिकरण से प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना विधिवत् रूप से जारी की गयी।

3. प्रार्थी श्रमिक संजय राठौर की ओर से क्लेम स्टेटमेन्ट प्रस्तुत कर संक्षेप में यह अभिकथित किया गया है कि उसे अप्रार्थी रीजनल मैनेजर, बैंक आफ बड़ौदा, क्षेत्रीय कार्यालय, झालावाड़ रोड़, कोटा (जिसे तदुपरान्त "अप्रार्थी नियोजक/बैंक" से सम्बोधित किया जावेगा) द्वारा दिनांक 10-1-98 से चतुर्थ श्रेणी कर्मचारी के पद पर सेवा में नियोजित किया गया था। उसे प्रथम तीन माह तक 2300/- रु., तदुपरान्त 2900/- रु. व उसके पश्चात् 60/- रु. प्रतिदिन की दर से वेतन का भुगतान किया गया। प्रार्थी निरन्तर कार्य करता चला आ रहा था कि उसे अचानक बिना कोई कारण बतलाये व बिना किसी पूर्व सूचना के दि. 12-9-2000 से नौकरी से हटा दिया गया। प्रार्थी ड्यूटी पर जाता रहा परन्तु उसे आज-कल कहके टालते रहे। तदुपरान्त उसके द्वारा अप्रार्थी के जरिये रा.ए.डी. पत्र दि. 12-10-2000 द्वारा प्राप्ति के तीन दिन में ड्यूटी पर लेने का निवेदन किया गया तथा वेतन की मांग की जिसका कोई प्रत्युत्तर ना तो दिया एवं ना ही उसे ड्यूटी पर लिया गया। इस प्रकार प्रार्थी ने 10-1-98 से 11-9-2000 तक निरन्तर कार्य करते हुए 240 दिन से भी अधिक समय तक कार्य पूर्ण कर लिया था तथापि उसे कार्य से हटाने से पूर्व अधिनियम की धारा 25-एफ के प्रावधानान्तर्गत एक माह का नोटिस अथवा नोटिस वेतन व छंटनी का मुआवजा ना तो दिया एवं ना ही प्रस्तावित किया। इसके अतिरिक्त नियमानुसार वरिष्ठता सूची का प्रकाशन नहीं किया गया, पहले आये बाद जाये सिद्धांत की अवहेलना करते हुए उससे कनिष्ट देवकुमार को सेवा में बनाये रखा गया और धारा 25-सी की अवहेलना की गयी। इसके अतिरिक्त उसे कार्य से हटाने के उपरान्त नये श्रमिकों को नियोजित कर लिया और उसे पुनः नियोजन का अवसर प्रदान नहीं किया जोकि अधिनियम की धारा 25-एच का उल्लंघन है। अन्त में प्रार्थना की गयी है कि उसे उक्त प्रकार से सेवा से हटाया जाना अनुचित एवं अवैध घोषित करते हुए पिछले सम्पूर्ण वेतन व सेवा के समस्त लाभों सहित सेवा में बहाल करवाये जाने का अनुतोष प्रदान किया जाये।

4. अप्रार्थी नियोजक की ओर से बावजूद तामील नोटिस के न्यायाधिकरण में कोई उपस्थित नहीं होने से उसके विरुद्ध दि. 28-5-2003 को कार्यवाही एकतरफा अमल में लायी गयी।

5. साक्ष्य एकतरफा में प्रार्थी श्रमिक ने स्वयं का शपथ-पत्र प्रस्तुत किया है, व प्रलेखीय साक्ष्य में डब्ल्यू.-1 लगा, डब्ल्यू. 55 नौकरी से व भुगतान से सम्बन्धित प्रलेख भी प्रस्तुत किये गये हैं जिनका यथासमय उल्लेख किया जावेगा।

6. बहस एकतरफा विद्वान प्रतिनिधि प्रार्थी की सुनी गयी व अभिलेख पर ग्राह्य साक्ष्य का ध्यानपूर्वक अवलोकन किया गया।

7. प्रार्थी ने अपने शपथ-पत्र में क्लेम में वर्णित तथ्यों की ही पुष्टि की है व समर्थित प्रलेखीय साक्ष्य में अप्रार्थी को नौकरी पर लेने हेतु भिजवाये गये पत्र की फोटोप्रति प्रदर्श डब्ल्यू.1, प्राप्ति रसीद प्रदर्श डब्ल्यू. 2, वर्ष 98-99 की बोनस भुगतान की शीट प्रदर्श डब्ल्यू. 3, जो बोनस 31-5-88 तक अप्रार्थी द्वारा भुगतान किया गया, की शीट प्रदर्श

डब्ल्यू. 4, अप्रार्थी द्वारा जरिये चैक भुगतान किया गया, उन चैक की फोटोप्रति प्रदर्श डब्ल्यू. 5 लगा. 50, वेतन रजिस्टर की विवरण की फोटोप्रति प्रदर्श डब्ल्यू. 51, समझौता अधिकारी के प्रस्तुत विवाद की फोटोप्रति प्रदर्श डब्ल्यू. 52, अप्रार्थी द्वारा प्रस्तुत जवाब की फोटोप्रति प्रदर्श डब्ल्यू. 53, प्रत्युत्तर प्रार्थी की फोटोप्रति प्रदर्श डब्ल्यू. 54 व असफल वार्ता प्रतिवेदन समझौता अधिकारी/केन्द्रीय/की फोटोप्रति प्रदर्श डब्ल्यू. 54 भी प्रस्तुत की है तथा उसकी मुख्य साक्ष्य यह रही है कि उसने अप्रार्थी के यहाँ बैंक में दि. 10-1-98 से च.श्रे. कर्मचारी के पद पर नियुक्त होकर 11-9-2000 तक निरन्तर कार्य करते हुए 240 दिन से अधिक समय तक का कार्य पूर्ण कर लिया था, तदुपरान्त भी अप्रार्थी द्वारा दि. 12-9-2000 को उसे सेवा से हटाये जाने से पूर्व अधिनियम की धारा 25-एफ, जी व एच के आज्ञापक प्रावधानों की पालना नहीं की गयी। प्रार्थी के उक्त कथनों का समर्थन, अप्रार्थी द्वारा जारी वर्ष 98-99 के बोनस भुगतान की शीट प्रदर्श डब्ल्यू. 3 से होता है जिसमें कि अप्रार्थी ने उसके द्वारा दैनिक वेतन भोगी पिओन की हैसियत से कुल 309 दिवस कार्य करना दर्शाते हुए लेखा वर्ष में कुल वेतन भुगतान की राशि 19180 रु. व बोनस की राशि 1598 रु. भुगतान करना दर्शायी है। इसके अतिरिक्त अभिलेख पर अप्रार्थी द्वारा प्रार्थी को समय-समय पर जो वेतन भुगतान जरिये चैक्स किया गया, उनकी भी फोटोप्रति प्रदर्श डब्ल्यू. 5 लगा. 55 अभिलेख पर उपलब्ध रही है। इस प्रकार अप्रार्थी की ओर से स्वयं उक्त स्वीकारोक्ति अनुसार प्रार्थी श्रमिक ने अप्रार्थी के यहां वर्ष 98-99 में कार्यरत रहते हुए 240 दिन से भी अधिक समय तक कार्य पूर्ण कर लिया था। इस सम्पूर्ण साक्ष्य का अप्रार्थी नियोजक की ओर से अभिलेख पर किसी प्रकार का कोई खण्डन नहीं किया गया है। अत: प्रार्थी की अभिलेख पर उपलब्ध रही मौखिक व प्रलेखीय जोकि पूर्णतया अखण्डित रही है, पर अविश्वास किये जाने का कोई कारण नहीं है और यह प्रमाणित पाया जाता है कि उसने अप्रार्थी नियोजक के यहां दि. 10-1-98 से 11-9-2000 तक की नियोजनावधि में च.श्रे. कर्मचारी दैनिक वेतन भोगी की हैसियत से निरन्तर रूप से 240 दिन का कार्य पूर्ण कर लिया था। अभिलेख पर प्रार्थी की ओर से यह भी अखण्डित साक्ष्य रही है कि उसके द्वारा उक्त नियोजनावधि में 240 दिन का कार्य पूर्ण कर लिये जाने उपरान्त भी अप्रार्थी नियोजक द्वारा उसे कार्य से हटाने से पूर्व अधिनियम की धारा 25-एफ के आज्ञापक प्रावधानों की पालना नहीं की गयी है। एक दैनिक वेतन भोगी जिसने कि एक कलेण्डर वर्ष में 240 दिन का कार्य पूर्ण कर लिया हो, को हटाने से पूर्व नियोजक के लिए अधिनियम की धारा 25-एफ की विधिवत् पालना किया जाना आवश्यक है, अन्यथा सेवा से किया गया निष्कासन पूर्णतया अवैध एवं प्रभाव शून्य होता है, इस मत की पुष्टि न्यायदृष्टांत "2001(88) एफ.एल.आर. 508 (एस.सी.)-दीपचन्द्र **बनाम** उत्तरप्रदेश राज्य एवं अन्य" से होती है। चूंकि प्रार्थी के हस्तगत मामले में अप्रार्थी द्वारा उक्त अधिनियम की पालना नहीं की गयी है, अत: उसका दिनांक 12-9-2000 से किया गया सेवा से निष्कासन पूर्णतया अवैध एवं प्रभावशून्य है और वह अपनी सेवा की निरन्तरता सहित सेवा में पुर्नस्थापित होने का अधिकारी घोषित होने योग्य पाया जाता है।

8. अब जहां तक प्रार्थी श्रमिक के सेवा पृथक् अवधि में अन्यथा लाभकारी नियोजन में रहने का प्रश्न है, प्रार्थी की शपथ-पत्र पर प्रथम बार यह साक्ष्य रही है कि वो नोकरी से हटाये जाने के बाद से आज दिन तक बेरोजगार रहा है। परन्तु प्रार्थी का यह कथन अक्षरस: सही माने जाने योग्य नहीं है। उसने अपने तथा अपने परिवार के भरण-पोषण हेतु कुछ न कुछ कार्य करके अवश्य लाभार्जन किया होगा, अत: तथ्यों व समस्त परिस्थितियों को ध्यान में रखते हुए प्रार्थी श्रमिक को पिछले वेतन के रूप में 25% वेतन ही दिलवाया जाना न्यायोचित समझा जाता है।

परिणामत: भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा सम्प्रेषित निर्देश/विवाद का अधिनिर्णयन कर इस प्रकार उत्तरित किया जाता है कि अप्रार्थी नियोजक रीजनल मैनेजर, बैंक आफ बड़ौदा, रीजनल ऑफिस, कोटा/राजस्थान द्वारा प्रार्थी श्रमिक संजय राठौर पुत्र श्री उच्चव लाल को दिनांक 12-9-2000 से सेवा से पृथक करना उचित एवं वैध नहीं है और प्रकरण के तथ्यों व समस्त परिस्थितियों को ध्यान में रखते वह अपनी सेवा की निरन्तरता व पिछले 25% वेतन सहित सेवा में पुर्नस्थापित होने का अधिकारी घोषित किया जाता है।

मणिशंकर व्यास, न्यायाधीश

नई दिल्ली, 12 फरवरी, 2004

का. आ. 546.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 87/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-02-04 को प्राप्त हुआ था।

[सं. एल. 12012/276/93-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 12th February, 2004

S. O. 546.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 87/94) of of Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on 11-02-2004.

[No. L-12012/276/93-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE, NEW DELHI

I.D. No. 87/94

Presiding Officer : R.N. Rai.

Sulkhan Singh

V/s

Punjab National Bank

AWARD

The Ministry of Labour vide its letter dated 28-7-1994 has referred the following point for decision. The point runs as hereunder :—

> "Whether the action of the management of the Punjab National Bank, New Delhi in denying officiation as clerk and officiating allowance to Shri Sulkhan Singh, Peon-cum-guard from July, 1991 is justified? If not, to what relief is the said workman entitled to?

The General Secretary has filed a written statement on behalf of Sh. Sulkhan Singh.

He has stated that the applicant Punjab National Bank Employees union is functioning in the union territory of Delhi and is Regd. And recognized Trade Union and enjoys absolute majority of the bank employees in the respondent Bank.

That the workman Sh. Sulkhan is a member of this union and is employed with Punjab National Bank, as peon-cum-guard in its Okhala Industrial Estate Branch.

That the service conditions of the bank employees including the workman concerned are governed by Shastri Award/Bipartite Settlements. Many a times, the employees in the subordinate cadre are called upon to officiate in the clerical cadre, and on officiating they are entitled to officiating allowance as per clause 9.11 of 1st Bipartite Settlement.

That as per policy and procedure of the Bank, officiating chance is allowed on the basis of branch wise seniority. Officiating chance in the clerical cadre is allowed to eligible members of sub-staff provided they are matriculate. Such officiating chance is not allowed to the armed guard, but the Peon-cum-guard are eligible for the same.

That the workman concerned is a matriculate peon-cum-guard and eligible to officiate in the clerical cadre in terms of Bank rules. In acknowledgement of his eligibility, he was being allowed officiating chance and was being paid officiating allowance, in terms of his seniority upto June 1991, where after, the management in most arbitrary and illegal manner stopped paying him the officiating allowance by disregarding his seniority. On the contrary, the management, in a whimsical and arbitary manner started giving officiating chance to the juniors of Sh. Sulkhan Singh which was not only unjust and illegal but also against the rules of the respondent Bank.

That the workman concerned protested against this illegal action of the management and requested the opposite party to respect and maintain the seniority of the employees in the Branch while allowing officiating chances. As the opportunity of the officiating was denied to him, for no fault on his part, he also requested for payment of officiating allowance for the period he had been superseded by his juniors. A copy of his representation, addressed to the chief Manager, Okhala Industrial Estate is enclosed marked as Annexure I.

That when the representation of the employee did not invoke requisite response from the management, the matter was taken up by the union vide dt. 05-09-1991. A copy of the said letter of the union is also enclosed marked as Annexure II.

That after follow up by the union the management again started giving officiating chances to Sh. Sulkhan Singh w.e.f. May 1992. However, the management did not pay him the officiating allowance for the period from 01-07-1991 to April 1992.

That the action of the management in denying officiating chance to the workman concerned from July, 1991 to April 1992 is unjustified, uncalled for, arbitary, illegal and against the rules of the Bank which has resulted in denial of officiating allowance to the workman concerned for no fault at his part. An eligible employee cannot be denied his right to officiating and consequent officiating allowance merely at the whims and fancy of the management. In terms of provision of Bipartite Settlement, the management has a right either to allow or dis-allow officiation chance, but once it decides to give officiating chance, it has no right to allow officiating chance to a junior employee by discharging the claim of an eligible senior employee.

That the workman concerned was always willing to officiate in the clerical cadre, as per his seniority, and he could not officiate as clerk on the relevant dates because he was prevented to do so by the management. The management is bound to compensate him by paying him the officiating allowance for the days he was not allowed to officiate despite his eligibility and seniority.

That as per practice in BO : Okhala Industrial Estate, the eligible employees are being paid officiating allowance, as per their seniority, without actually shifting them from their seats. On the basis of this practice also, the workman concerned is entitled to the payment of officiating allowance for the relevant period when he was denied officiating is regarding his seniority and officiating allowance was paid to his juniors.

That the workman or the union have not entitled any other proceedings before any other forum with regard to this matter.

That the union reserves its right to add, alter or amend these submissions.

Prayer

In view of of aforesaid facts and circumstances, it is respectfully prayed that your Honour may answer this

reference in favor of workman/union by declaring as under :.

(a) that the management was not justified in denying officiating as clerk and officiating allowance to Sh. Sulkhan Singh, Peon-cum-guard from July, 1991.

(b) that the workman concerned is entitled to receive payment of officiating allowance for the period he was superseded by his juniors.

(c) that the workman concerned is also entitled to interest at commercial rate on this belated payment.

(d) Any other relief which this Hon'ble Tribunal may consider just and fair in the facts and circumstances of the case.

In reply to the claim on behalf of the defendant, it is stated that the dispute has not been duly and validly exposused in as much as the union has not filed any resolution exposual and in the absence of the same, the so called, dispute cannot be termed as Industrial Dispute under the provisions sector 2(s) of Industrial Dispute Act 1947.

The services conditions of the Bank employees are governed by Shastri Award/Bipartite Settlement etc. revised at from time to time. The relevant provisions of the Bipartite Settlement relating to officiating are reproduced as under :

"Para 19.10 : Wherever a bank required a workman to officiate in a post in a higher cadre it will do so by an order in writing.

Para 19.11 (b) : If a member of the subordinate staff officiates in a clerical cadre, he shall be paid officiating allowance at the rates .....".

Further, settlement dt. 19-06-1991 provides in clause-8 that the bank management may provide opportunity to workman in the subordinate cadre other then Armed guard, Chowkidars, full-time sweepers or frashers or cleaners drawing full scale wages on the basis of branch wise/ Department—wise seniority to officiate in clerical cadre. Under this clause it is further provided that this opportunity of officiate in clerical cadre shall be given as per the requirements of the bank and such opportunity to officiate shall also not be given in a routine manner or as a matter of course.

It shall not be out of place to mention that the above quoted settlement dt. 19-06-1991 is between the bank and the AIPNBE federation and the union representing the case is affiliated to the above federation and hence is a party to the settlement. According, provisions of the settlement dt. 19-06-1991 are binding on the union and the union cannot compel management to violate the provisions of the settlement. Thus, claim of the union is not maintainable on this ground also.

In view of the mentioned provisions, it is prerogative of the bank management whether officiating chance is to be given or not to a member of Award staff. Therefore, the adjudicating authority has no jurisdiction to consider the prerogative of the management. The aforesaid preliminary objections are of substantial nature and it is requested that the same may be considered first before going into the merits of the case.

PARAWISE REPLY TO THE CLAIM

The content of this para are not disputed.

It is admitted that Sh. Sulkhan Singh is employed with Punjab National Bank as Peon-cum-guard in its Okhala Industrial Estate Branch and worked there at from 16-08-1986 to 24-09-1994.

Content of this para are not disputed.

It is true that as per the Bank's procedure and policy officiating chance is allowed on the basis of the branch-wise seniority and officiating chance is allowed on the basis of the branch-wise seniority and officiating chance in the clerical cadre is allowed to the members of sub-staff as per their seniority provided they are matriculate and peon-cum-guards are also eligible for the same subject to various provisions of the settlement as quoted above.

Content of this para are admitted to the extent that the workman concerned is a matriculate Peon-cum-guard and eligible to officiate in the clerical cadre in terms of the bank's rules and he was being allowed officiating chance and was being paid officiating allowance in terms of Bipartite Settlement upto June '91'. However, it is not true that the management, in an arbitrary and illegal manner, stopped paying him the officiating allowance by disregarding his seniority. Infact, branch office Okhala of the bank is situated in an isolated place and has been sanctioned 02 guards for guarding the branch from security angel. Moreover, in terms of the IBA guidelines, the branch is covered under high risk criteria. in July '91' an accident of robbery/dacoity took place in a nearby bank namely State Bank of Patiala wherein some persons were killed. Keeping in view the security point, bank exercised its prerogative. Banks are financial institutions acting as custodian of the money, valuable etc. deposited by the customers, hence they are accountable to the public for the confidence reposed in entrusting their valuables, money etc. to the bank. Therefore, it was a duty of the bank to ensure that adequate safety and security measures and undertaken to not only keep the articles etc. deposited by the public with the banks but also its own staff and property.

Further, the Bipartite Settlement clearly provides that wherever it is required, the management shall make arrangement of officiating by making an order in writing. In view of these provisions as also the provisions of the

settlement dt. 19-06-1991, it is evident that officiating is not a matter of routine and can also provides that certain sections of the subordinate staff e.g.. This provision further clarified that this sections of subordinate staff is disentitled to officiating because they are deployed for the purpose of security. The settlement itself reflects the importance of the security of offices wherein heavy transactions relating to the cash take place. The branch is an exceptionally large branch having approximate total business of 150 crores wherein only 02 security guards are posted. Besides, the prevailing circumstances of this time i.e. deteriorating law and order position not only in Okhla Industrial Estate but in the city at large road with the purpose of the settlement disentitling the certain members of the subordinate staff whose prime duty is to guard the branch/office, the bank management was well within its right not to allow Sh. Sulkhan Singh to officiate in clerical cadre.

It is denied that any representation was sent to the Chief Manager, BO : Okhla Industrial Estate by Sh. Sulkhan Singh.

It is true that a letter was received from the union but the same was not dated 05-09-1991. In fact the Defendant Bank received a letter dt. 11-11-91 from the union which has addressed to the Regional Manager, South Delhi Region.

It is true that the Defendant Bank started giving officiating chance to the workman w.e.f. May' 92. The claim of the workman for paying officiating allowance for the period from 01-07-1991 to April' 92 cannot be entertained as during that period his services were used as Guard for security reasons.

The content of this para are not admitted. The defendant management was within its right not to allow officiating chance to the workman from July' 91 on account of reasons herein before mentioned.

Even if the workman concerned was willing to officiate in clerical cadre, the need of the bank was to use his services as guard, his designation being that of peon-cum-guard and he was used as such for the purpose of security. The management is not in any way bound to compensate him by paying him the officiating allowance from July'91 to April'92 as claimed as the decision of the bank in having not allowed the workman to officiate was within its right to allocates duties and deploy its staff keeping in view the exigencies of work and circumstances. Keeping in view the facts that there had been a dacoity in the area in which the bank is allocated, Sh. Sulkhan Singh's services were used only as a guard. Keeping in view that the defendant bank has only exercised its right, the tribunal has no jurisdiction to consider the propriety of the action taken.

Content of this para are denied into. The employees are paid officiating only when they actually work on the seats where they are required to officiate. The workman concerned is not entitled to any payment with regard to officiating allowance for the relevant period as his services were used as guard only.

This does not need any comments.

Needs to comments.

In view of the aforesaid, it is prayed that the claim of the workman/union is not maintainable and that the case be closed in favor of the Defendant Bank.

In rejoinder to the reply filed on behalf of the management, it is stated that the contents of para 1 of the preliminary objections are denied being factually and legally incorrect. The industrial dispute has been exposed by the union in accordance with the provision of industrial Act and the laid down law on the subject. Contents of the contrary are denied.

That the content of Para 2 and 3 of the preliminary objections are accepted so far as they are concerned with the true reproduction of the provision of industry wise bipartite settlement and settlement dated 19-06-1991. It is accepted that the workman in subordinate cadre other than Armed Guard, Chowkidars, full time sweepers or frashers or cleaners are provided opportunity to officiate in the clerical cadre on the basis of branch wise/department wise seniority. Accordingly, Peon-cum-guards are eligible to officiate in the clerical cadre on the basis of branch wise/department wise seniority, provided, they are matriculates. It is retained that an eligible employees cannot be denied his right to officiating allowance merely at the whims and fancies of the management. In the terms of provision of settlement., the management has a right either to allow or disallow officiating chance, but once it decides to give officiating chance, it cannot give it to a junior employee by disregarding the claim of an eligible senior employee. Contents to the contrary are denied. The claim filed by the union is just, fair and legal and the same is maintainble under the provision of law.

PARAWISE REPLY

1, 2 & 3, Content of these paras need no reply.

Content of this para need no reply except the submission that the reliance will be placed by the union on the concerned provision of settlement for fair and legal interpretation at the time of hearing.

Contents of para 5 of the reply are denied and those of para 5 of the statement of claim are reiterated. It is denied that the officiating was discontinued to the workman concerned because of security reasons. The very fact that the management restarted the officiating chance after a

gap of 10 months without any addition in the security staff gives a complete lie to the story being put forward by the management. The union is not disputing that the officiating cannot be claimed as a matter of routine and has to be allowed as per the requirements of the bank. However, this provision does not give an arbitrary power to the management for adopting the policy of pick and choose while allowing officiating. Management has a right to allow or disallow officiating chance but once it decide to allow officiating chance, it cannot disregard the seniority of an eligible senior employee. Peon-cum-guard do not fall in the excluded category for the purpose of officiating chance in the clerical cadre. The management has itself admitted in para 4 of the reply that Peon-cum-guard are to be allowed officiating chance. The workman concerned is a Peon-cum-guard. Accordingly, he is eligible to officiate in the clerical cadre and he cannot be denied his rightful claim under the provisions of settlement by the management on the denied his rightful claim under the provision of settlement by the management on the spacious and extraneous plea of security. This exclusion is applicable only to the armed guard and not to Peon-cum-guard. Contents to the contrary are denied.

Content of Para 6 are denied and those of para 6 of the statement of claim are reiterated.

In reply to Para 7 it is reiterated that besides letter dated 11-11-1991, letter dated 05-09-1991 was also submitted to the Regional Manager, South Delhi Region.

Contents of Para 8 are denied admitted to the extent that w.e.f. May 1992, the management resumed allowing officiating chance to the workman concerned. It is, however, denied that officiating allowance for the period from 01-07-1991 to April, 1992 cannot be entertained as during that period the services of the workman were used as guard for security reasons. It is reiterated that the workman was denied the officiating chance during the said period in an arbitrary and whimsical manner. As he was prepared to perform the officiating duties and was prevented by the management to do so in arbitrary and illegal manner, he is entitled to receive payment of officiating allowance for the period he was superseded by his juniors. Contents to the contrary are denied and those of paras 8 and 9 of the statement of claim are reiterated.

Contents of Para 10 of the reply are denied and those of para 10 of the statement of claim are reiterated. It is denied that the decision of the management in having not allowed the workman to officiate was within its rights to allocates duties and deploy the staff keeping in view the exigencies and circumstances. Both the management and workman are bound by the provisions of settlements and management is not free to violate provisions of the settlements and disregard the accepted practices at their whims and fancies. It is reiterated that the bank has right to allow or disallow officiating on a given occasion but once it decides to allow officiating; it has no right to allow it to a junior employee disregarding the claim of its senior eligible employee. Contents of the reply to the contrary are being misconceived and incorrect.

Contents of Para 11 of the reply are denied and those of para 11 of statement of claim are reiterated. It can be seen from the records of the branch that the eligible employees are being paid officiating allowances, as per their seniority without actually shifting them from their seats. It is reiterated that the workman concerned is entitled for the payment of officiating allowance for the relevant period both in accordance with the provisions of settlement as well as practices being adopted in the concerned branch.

These paras need not reply.

Heard arguments from both the sides and perused documents on the record. Perused written Argument of both the parties.

The learned counsel for the workman argued that it is admitted position that the workman was officiating at the post of clerk from 1987 onwards. It is also admitted that he was suddenly on 1st July 1991 informed that he was not eligible to work as officiating clerk and he was not entitled to get officiating allowance for the post of the clerk. This shows that the workman worked in the clerical cadre from 1987 onwards at Okhala Industrial Area Branch of the PNB and continued to officiate upto 30th June 1991.

It was further submitted by the learned counsel of the workman that the workman passed matric in 1987 and he was getting officiating allowance for officiating on higher post. He had been reverted to the post of guard again and he was not getting officiating allowance. As per Annexure A armed guards are eligible for promotion to the clerical cadre without any minimum qualifying service. This document has been filed by the management itself and in it, it has been admitted that the armed guards may be given opportunity to officiate in clerical cadre. This relates back to 19th June 1991 whereas the workman officiated the clerical cadre in 1987 upto 30th June 1991. As such he officiated the post for about 4 years. In Annexure II it has been mentioned that those employees in the subordinate cadre who were promoted on or after 01-11-1987 necessary arrears be paid to them. As such according to the Bipartite settlement and the regulation of the bank those employees who on 01-11-1987 or after that were promoted to the clerical cadre they should be given officiating allowance. This workman was also admittedly officiating in the clerical cadre. Since 1987 and he had got allowance upto 30th June 1991.

The learned counsel for the management argued that in writing nothing was given for officiating. He was an armed guard and he does not fall in the categories of

persons to be given officiating job of clerical staff. It was further argued that due to security reasons he was reverted to armed guard.

The argument of the learned counsel is quite erroneous. The workman has worked for 4 years at the post of officiating clerk and he comes in the category of persons to be promoted. As such only for security purposes a workman cannot be reverted to his prior post after 4 years of officiating in the clerical cadre. The learned counsel for the management drew my attention to AIR 1975 SC Page 2238 and 1979 LAB I. C Page 585 SC. These two citations are not applicable in the facts and circumstances of the case. The workman case is quite genuine for promotion and officiation in the clerical cadre. The point referred to for adjudication is replied thus.

The action of the management of the Punjab National Bank New Delhi in denying officiation as clerk and officiating allowance to Sh. Sulkhan Singh Peon-cum-Guard from July 1991 is not justified. He is entitled to officiate as clerk and he is also entitled to get officiating allowance and the arrears of officiating allowance due.

Dated : 06-02-2004

R. N. RAI, Presiding Office.

नई दिल्ली, 12 फरवरी, 2004

का. आ. 547.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण पटना के पंचाट (संदर्भ संख्या 9(सी)/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-02-04 को प्राप्त हुआ था।

[सं. एल. 12011/220/2001-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 12th February, 2004

S. O. 547.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 9(C)/2003) of the Industrial Tribunal PATNA (BIHAR) as shown in the Annexure, in the industrial dispute between the management of UCO Bank, and their workmen, received by the Central Government on 11-02-2004.

[No. L-12011/220/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER : INDUSTRIAL TRIBUNAL, PATNA

Reference No. 9C of 2003

Management of UCO Bank, Mauryalok Complex, Patna and their workman represented by UCO Bank Employees Association, Exhibition Road, Patna.

For the Management : Mr. P. K. Chatterjee, A.C.O.

For the Workman : Sri B. Prasad, State Secretary, UCO Bank Employees Association, Patna

Present : Priya Saran, Presiding Officer, Industrial Tribunal, Patna

AWARD

The 3rd day of February, 2004.

By the adjudication order No. L-12011/220/2001-IR(B-II) dated 22-4-2002 the Government of India, Ministry of Labour, New Delhi has referred, under Clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (hereinafter to be referred to as 'the Act') the following dispute between the management of UCO Bank, Mauryalok Complex, Patna and their workman Sri Arvind Kumar Singh, Peon for adjudication to this Tribunal :—

> "Whether the claim of the Union to regularise the services of Shri Arvind Kumar Singh, a daily wages workman of Piri Bazar Branch, Munghyr in UCO Bank is legal and justified? If so, what relief he is entitled to?"

2. Both the parties have filed their written statement but we find that there is hardly any dispute between them on the factual aspect of the case. The worker Sri Arvind Kumar Singh has come out with a case to regularise his services in the UCO Bank. The management on the other hand is although aggreable to regularise his services but subject to lifting of restrictions imposed by Reserve Bank of India in the matter of absorbing the casual workers working in the Bank.

3. The facts which are undisputed are that the workman was orally appointed by the management of UCO Bank on 18-6-90 to discharge the duties of peon at Tarapur Branch. When he was terminated once, an industrial dispute was raised, wherein this Tribunal gave an Award in workman's favour, pursuant of which he was ordered to join at Piri Bazar Branch of the Bank in the District of Monghyr, and he has been working there on daily wages continuously since 7-12-98. It is said by the workman that he has been discharging his duties from 10 A.M. to 6 P.M. and even beyond as per requirement and is being paid wages for Sundays and Holidays also. There being no other permanent peon in Piri Bazar Branch, he has been discharging all the duties of such a peon. As the management is not regularising him in the service, the

present dispute has been raised by the Union in this respect.

4. The management on the other hand states in the written statement that in view of a settlement between Union and the Management for permanent absorption of casual workers, who had worked for at least 240 days between 12-10-86 to 12-10-89, a penal for permanent absorption has been prepared by the Bank. The workman Arvind Kumar Singh is one of the empanelled employee. The Bank is not averse to absorb the worker but the Reserve Bank of India vide their letter No. BP-1731/ 2101002/96 dated 16-12-97 has put a ban/restriction on recruitment. All India UCO Bank Employees Federation has earlier raised a dispute for regularisation under Article 226 of the Constitution of India vide WP No. 1390 of 98, wherein Hon'ble High Court, Calcutta gave a direction to the Bank to consider the case of the petitioner before Court and further to absorb the rest of the casual workers as and when Reserve Bank of India lifted the restrictions. The Bank's management was further directed not to fill up any post until these casual workers where absorbed in the substantive post. It is further mentioned in written statement that the Government of India in Ministry of Labour, refused to refer the disputes of four such workers in view of aforesaid direction of Hon'ble Court. In view of management's intention to comply with aforesaid directions, Hon'ble Patna High Court also disposed of two C.W.J.C. Nos. 4001 and 4747 both of year 1999.

5. The documents in support of aforesaid facts have been exibited or annexed by the parties. Exts. M/1 to M/9 showing the intention of the management after preparing the panel for permanent absorption of casual workers and also the Judgements of Hon'ble Calcutta and Patna High Courts and Labour Ministry's orders declining reference to the Tribunal have been filed by the management. The workman has filed Exts. W/1 to W/4 to show his date of birth, his caste and the service he rendered to the Bank from 18th June, 1990.

6. It has already been noted that so far the facts of the case are concerned the parties are not at dispute. What the Union desires from the Tribunal is that the workman should be regularised in view of management's lukewarm attitude in the matter, whereas the management's stand is that the workman stands named in the panel and as soon as occasion arises for his absorption it shall be done without any difficulty. The learned representative of the management informed during course of argument that out of 400 empanelled workmen, 100 have already been absorbed, while another 100 workmen in the next lot are in the process of absorption. But when asked to clarify whether the name of the workman Arvind Kumar Singh is there in the second list, he made clear that his name is not in consideration in the present list.

7. As the position stands at present it is quite obvious that the workman has been discharging the duty of a peon as a daily wage worker right from June, 1990. He is presently working in Piri Bazar Branch, where there is no other permanent peon. In aforesaid circumstances, it can be safely inferred that the workman is working as on a permanent post and the management is sitting composed and taking no interest in posting a permanent peon in the said Branch. The revelations made on behalf of the management appear to be quite startling that Piri Bazar Branch of the Bank is going without a permanent peon and still the management is waiting for some opportunity to come in future to fill up the post. It just appears in the circumstances aforesaid that the management is taking recourse to a go slow tactics in the matter of the absorption of casual workers including the workman Sri Arvind Kumar Singh on a permanent basis.

8. So far workman Arvind Kumar Singh is concerned, he has rendred services to the UCO Bank for more than 13 years and I do not find any justification as to why his services should not be regularised as soon as possible. The management can not be permitted to have a long rope in the matter of absorption on one ground or the other, more so, when 100 empanelled persons are already in regular service and the second lot of 100 such workers are under way of absorption. The time appears to have come for the management to proceed with all seriousness and promptness and take up the absorption matter of Arind Kumar Singh and also other workmen left in the panel without any further delay.

9. It is accordingly directed in view of discussions made above that the services of workman Sri Arvind Kumar Singh be regularised as prayed for subject to fulfilling all the caritеria in this respect preferably within a period of there months from notification.

10. Award accordingly.

Dictated and corrected by me.

PRIYA SARAN, Presiding Officer

नई दिल्ली, 12 फरवरी, 2004

का. आ. 548.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, मुम्बई के पंचाट (संदर्भ संख्या 04/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-02-04 को प्राप्त हुआ था।

[सं. एल. 31012/17/2000-आई आर (एम)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 12th February, 2004

S. O. 548.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 04/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mumbai Port Trust and their workmen, which was received by the Central Government on 11-02-2004.

[No. L-31012/17/2000-IR (M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

PRESENT:

Shri Justice S. C. Pandey

Presiding Officer

REFRENCE NO. CGIT-04/2001

PARTIES : Employers in relation to the management of Mumbai Port Trust

AND

Their Workmen

APPEARANCES:

For the Management : Mr. M.B. Anchan, Adv.

For the Workman : Mr. Apraj, Secretary

State : Maharashtra

Mumbai, dated the 30th day of January, 2004

AWARD

1. This is a reference made by the Central Government in exercise of its power under clause (d) of Sub-section 1 and Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (the Act for short). The terms of the dispute are as follows as per schedule :

> "Whether the the action of the management of Mumbai Port Trust, Mumbai in terminating the services of Shri Suryakant Dhondu Shinde (Sr.) Tally Clerk by way of removal from service w.e.f. 23-10-1998 is legal and justified? If not what relief the workman is entitled to?"

2. The admitted facts of this case are Shri Suryakant Dhondu Shinde (Sr) (the workman for short) was working as a Tally clerk with the Mumbai Port Trust (the Trust for short). The workman was issued a charge sheet dated 08-10-1997 under Regulation 12 read with Regulation 13 of the Bombay Port Trust Employees Regulations 1976. It was alleged that workman remained absent for 292 days on 75 occasions between 01-5-95 to 7-7-997. It was alleged that workman was punished by with holding of increment for his previous absence for 399 days on 25 occasions between 29-6-1993 to 30-8-93 but he did not improve. The workman was charged with the violation Regulation No. 3 (1A) (ii) which provided No Employee shall remain absent without sanctioned leave or be irregular or unpunctual in statement. It is not in dispute that the workman faced an enquiry. The enquiry report was accepted by the disciplinary authority. The workman was removed from service w.e.f. 23-10-1995.

3. The workman challenged the removal from service on the ground that the findings are perverse. The principles of natural justice were not followed. There was justification for absence of the workman. He had submitted medical certificates to the effect that he was sick or his members of family were sick. The punishment was disproportionate to gravity of alleged misconduct.

4. The Trust denied the claim of workman in toto. It was pleaded that workman was given the charge sheet. The enquiry was held against him under Regulation 12 and 13 of the Regulations of 1976. The workman was given full opportunity to defend himself. The number of occasions the workman absented himself showed that he disregarded his duties. In the enquiry the workman admitted his fault.

5. The workman examined himself on affidavit and closed his case after examination. The Trust filed the affidavit of S. S. Tijore, the enquiry officer and closed its case.

6. The workman had not challenged the procedure of enquiry in his affidavit. He did not dispute in cross examination that the enquiry was adjourned to give him opportunity to bring the defence representative. He stated that he had admitted that he was absent. The evidence of the Enquiry officer S. S. Tijore in his examination in chief has not been shaken in cross examination. The workman had not given any explanation. He remained absent without taking leave. This tribunal finds no defect in conducting the enquiry.

7. The Enquiry report is based on evidence. Shri S. K. Katkar PW 1. The workman had also admitted that he remained absent without leave but tried to justify it. The workman was found to have been absent between 01-9-1995 to 7-7-96 for 292 days on 71 occasions and not 75. The workman was rightly held to have committed misconduct of remaining absent without sanction of leave.

8. The previously also the workman was punished for same delinquency. Therefore, he was removed from service. This tribunal does not find any reason to interfere with the sentence on exercise of its powers under Section 11-A of the Act.

9. The reference is answered by stating that the services of the workman Shri Suryakant Dhondu Shinde (Sr) were rightly terminated by passing the order of removal w.e.f. 23-10-1998. The workman is not entitled to any relief. The reference is not accepted. No costs.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 12 फरवरी, 2004

का. आ. 549.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 90/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2004 को प्राप्त हुआ था।

[सं. एल-12012/239/92-आई. आर.(बी.-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 12th February, 2004

S.O. 549.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref No. 90/92) of the Central Government Industrial Tribunal-cum-Labour Court-2, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of New Bank of India and their workmen which was received by the Central Government on 11-2-2004.

[No. L-12012/239/92-IR (B. II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding Officer: R. N. Rai

I.D.NO.90/92

JAGDISH

VERSUS

NEW BANK OF INDIA

AWARD

The Ministry of Labour vide its letter dt. 22-09-1992 IRB-2 Central No.-12012/239/90 has referred the following point for adjudication. The point runs as hereunder:—

> "Whether the action of the management of New Bank of India, Karol Bagh Branch, was justified in terminating the service of Shri Jagdish as sub-staff w.e.f. 26-08-1990? If not, to what relief the workman is entitled to?"

The workman has filed the statement of claims. In it, he has stated that he performed the duties of the regular member of subordinate staff but the bank instead of paying him the pay and allowances at the scales applicable to the member of the subordinate staff under the 5th Bipartite settlement, was paying to him only lumpsum wages determined at its sweet whim. He was not a temporary employee but he was a permanent employee. The bank employed him in May, 1989 and he continued till 26-08-1990. In violation of Shastri Award, he was not given a letter of appointment. The management did not allow him to put his signatures. His services were terminated abruptly on 26-08-1990 without any notice. He was orally asked not to attend the bank. No notice under Section 25(B) of the Industrial Dispute Act was given to him. It has been further submitted that he has worked for 458 days. During the said period, he was confirmed by the Senior Manager of the said branch by a letter dt. 14-1-1991/9-6-1991 addressed to the Regional Office of the Bank at Delhi. A copy of the said letter is attached as annexure W/1. His services were not regularised and he was not absorbed. He rejected his representation of re-instatement of service, the copy of the representation is enclosed as Annexure W/2. The action of the management was illegal, unjustified and it amounts to unfair labour practices. He has worked from May, 1989 to August, 1990. In 1990, he worked for 8 months. The total service in the year 1990 is for 240 days.

The management has filed written statement. In his written statement, the management has submitted that the workman was to perform casual job in respect of filling water coolers, air coolers, purchase of ice, supply of water etc. and was paid lumpsum amount for performace of these casual jobs. The competent authority has never appointed him. He never worked permanently in the bank. The appointment in the bank is made in accordance with the regular recruitment channels through Employment Exchange or Banking Services Recruitment Board. All the other statements of claim have been specifically denied which need no mentioning again and again.

The claimant has filed rejoinder. In his rejoinder, he has repudiated the statement of W.S. and he has submitted that he was not posted for filling water coolers, air coolers, and purchase of ice etc. He was a regular peon and he worked in 1989-1990. Thereafter his services were terminated abruptly which is not according to Section 25B of the I.D. Act or Section 25 .F. It has been further submitted in the additional pleas that he has gone through the regular channel for regular appointment in the bank even if there was no legal appointment. He has worked for more than 240 days. As such under the I.D, Act, his services should be regularised.

Heard arguments from both the sides and perused the written arguments. The learned counsel for the workman argued that he was a temporary peon from May 27, 1989 to 25th August, 1990 for 458 days and the Assistant General Manager has written letter to the Regional Office for his absorption. Thereafter the said Asstt. General Manager has said that he issued a letter on the request of the workman himself and he has no knowledge of the days of his duty . It has been further submitted that the workman has worked in 1990 only for 239 days. He has not completed 240 days as required under the ID Act. However, he has been given payment with vouchers. 239 days worked is to be proved by the vouchers issued to him because the

management has not accepted that he has worked for 239 days. The vouchers have been annexed with the record. The first voucher which relate to the payment is of 3-08-1990. The other is of 24-06-1990. The third voucher is of 1-7-1990. Rs. 50/- amount has been written on the vouchers. The fourth voucher is of 30-09-1990. Rs. 50/- amount has been written thereon. He has submitted no other voucher. It simply indicates that on 30-08-1990, he received Rs. 50/-. On 30-09-1990, he received Rs. 50/-. On 8-5-1990, he received Rs. 60/- and in all the vouchers, it has been written that the payment was made for filling water in the water coolers. On 10-07-1990 he was paid Rs. 50/- for filling water in the water coolers. On 24-6-1990, he was paid Rs. 50/- and that was for filling water in the water coolers. As such, if the entire vouchers of 1990 are taken into consideration, he has been paid in the year 1990 about 300 Rupees. As such, he cannot be said to be engaged as casual labour but he was engaged simply for filling water coolers.

The learned counsel for the workman drew my attention to 1992 ILJ, page 452 and AIR 1997-SC page 3657 and AIR -1997-SC Page 3658 and 1994 LAB.I.C. 1197 and 1994 LAB. I.C. 1199. I have gone through all the rulings cited by the learned counsel but none of the laws laid down by the Apex Court apply in the facts and circumstances of this case as the workman was simply a water filler and he has received payment for filling water in the water coolers.

The Learned Counsel for the management argued that the letter of the Branch Manager is false. He has sent the letter out of sympathy. The workman has not really worked for 240 days . The burden is on the workman to prove that he was worked for more than 240 days. No appointment letter has been filed on the record . There is only letter of the Branch Manager in which he has stated that the workman worked for 240 days but subsequently he has repudiated his letter and has said that he wrote the letter out of sympathy. He did not know whether the workman has worked for more than 240 days. So the workman cannot get the benefit of the letter of the Manager. He has to prove by independent evidence that he worked for more than 240 days .

The learned counsel for the workman cited AIR 1997 SC 2342 and I.L.L.J 1992 page 452, AIR 1997 SC 3657, AIR S.C.C 1994 page 1197, 1994 LAB I.C 1197and 1994 LAB I.C 1199. I have gone through all the citations. It is clear from these citations that if the services are terminated after 240 days , then a notice and payment of compensation is necessary . These citation are not applicable in the facts and circumstances of the case. The case of the management is that he was a water filler . He has received money through vouchers and in all the vouchers it has been written that Rs. 50/- was paid to him for water filling . As such the workman has not established the fact that he worked for more than 240 days . So his statement of claim is not proved either by oral evidence or by documentary evidence . The action of the management is justified and correct the workman is not entitled to reinstatement or regularisation.

The point referred for adjudication by the Ministry of Labour is replied thus :—

The action of the management of the New Bank of India, Karol Bagh Branch, was justified in terminating the services of Shri Jagdish as sub-staff w.e.f. 26-08-1990. The workman is not entitled to any relief paid for.

Dated:—06-02-04

R. N. RAI, Presiding Officer

नई दिल्ली, 12 फरवरी, 2004

का. आ. 550.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 159/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2004 को प्राप्त हुआ था।

[सं. एल-12011/26/98-आई. आर.(बी.-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 12th February, 2004

S.O. 550.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 159/99) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the management of UCO Bank and their workmen which was received by the Central Government on 11-2-2004.

[No. L-12011/26/98-IR (B. II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

REFERENCE NO. 159 OF 1999

PARTIES: Employers in relation to the management UCO Bank and their Workman.

APPEARANCES:

On behalf of the workman : None.

On behalf of the employers : None.

State : Jharkhand Industry : Banking.

Dated, Dhanbad, the 28th January, 2004.

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section

10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12011/26/98/IR/(B-II), dated, the 17-2-1999/3-3-99.

SCHEDULE

"Whether Sh. Md. Shamsher Alam has worked for 240 days or more with the management of UCO Bank since 15-5-89 to 26-4-97? If so, whether the action of management of UCO Bank in terminating his services w.e.f. 27-4-97 is justified? If not, to what relief the workman is entitled to?"

2. In this case neither the concerned workman nor his representative appeared. None also appeared on behalf of the management. This case is pending since 1999. It reveals from the record that in spite of giving several opportunities paties have failed to take any step in the matter of taking up hearing of this case. It shows clearly that neither the concerned workman nor the management is interested to proceed with the hearing of this case. Under such circumstances a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer.

नई दिल्ली, 12 फरवरी, 2004

का. आ. 551.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. I, धनबाद के पंचाट (संदर्भ संख्या 22/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2004 को प्राप्त हुआ था।

[सं. एल-20012/156/94-आई. आर.(सी.-I)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th February, 2004

S.O. 551.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No. 22/1997) of the Central Government Industrial Tribunal/Labour Court-I, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen which was received by the Central Government on 6-02-2004.

[No. L-20012/156/94-IR (C.I)]

N. P. KESHAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference under Sec. 10(1)(d)(2A) of the Industrial Disputes Act, 1947

REFERENCE NO. 22 OF 1997

PARTIES: Employers in relation to the management of Kessargarh Colliery of M/s. B.C.C. Ltd.,

AND

Their Workmen.

PRESENT: SHRI B. BISWAS, Presiding Officer

APPEARANCES:

For the Employers : Shri H. Nath, Advocate

For the workman : Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

State : Jharkhand Industry : Coal

Dated, the 20th January, 2004.

AWARD

By Order No. L-20012/156/94/IR/(C-I), dated, the 7th February, 1997 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the Union is justified in demanding from the management of Kesseargarh Colliery of M/s. B.C.C.L. reinstatement (after 16 years) of Shri B.C. Mahato ? If so, to what relief the workman is entitled and from what date?"

2. The case of the concerned workman according to the written statement submitted by the sponsoring union on his behalf, in brief, is as follows :

The sponsoring union submitted that the concerned workman was a permanent P. F. Clerk at Kessargarh Colliery under M/s. BCCL. They submitted that due to serious illness the said workman failed to attend his duty w.e.f. 3-12-75 and the same was duly intimated to the management. It has been alleged by the sponsoring union that the management though was fully aware about serious illness of the concerned workman ignoring that fact issued a charge-sheet against him dated 20-12-1976 for his alleged absence from duty without intimation and information. They submitted further that the concerned workman had replied to the charge-sheet denying the charges emphatically and though his explanation was satisfactory enough still then without accepting his explanation the management decided to hold departmental enquiry against him and for which appointed an officer as an Enquiry Officer to that effect. They submitted that the said enquiry proceeding was held ex-parte but in the said ex-parte hearing they failed to establish the charges levelled against the concerned workman. They further alleged that on the basis of enquiry report the Disciplinary Authority illegally and arbitrarily and violating the principle of natural justice dismissed him from service w.e.f. 27-7-1976. Immediately after getting knowledge of that dismissal the concerned workman raised his protest and submitted representation for his reinstatement in service but as the management did not consider his prayer he through his union raised an industrial dispute before the Asstt. Labour Commissioner (C),

Dhanbad for conciliation. They further alleged that though conciliation proceeding was ended in failure, but unfortunately the Ministry of Labour rejected the dispute to refer before the Industrial Tribunal for adjudication on the ground of alleged delay. Accordingly the sponsoring Union challeged the decision of the Ministry before the Hon'ble High Court, Patna, Ranchi Bench which was registered as CWJC No. 2262/96(R) and the Hon'ble High Court by its order dated 3-12-1996 directed the Ministry to refer the dispute for adjudication quashing the Ministry's order in refusing the reference on the ground of delay. In view of the said decision of the Hon'ble High Court, Ranchi, the Ministry has referred the dispute before this Tribunal for adjudication. Accordingly, the sponsoring union on behalf of the concerned workman submitted prayer for passing an award directing the management to reinstate the concerned workman with full back wages.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workman. They submitted that the concerned workman was the Provident Fund Clerk at Kessargarh Colliery in the year 1975. He left his employment w.e.f. 4-12-75 without any information and without any permission for the reason best known to him. Accordingly, on 20-12-75 management issued a charge-sheet calling explanation from him for his absence from his duty as P.F. Clerk without information and without any permission. The concerned workman did not submit any reply to the charge-sheet and did not bother to explain the reason for his unauthorised absence for personal of the management to find out if he had any satisfactory cause for his absence. Accordingly, the management decided to conduct a departmental enquiry in accordance with the principle of natural justice and appointed Enquiry Officer and Presenting Officer in that regard. The concerned workman did not bother to attend the enquiry and for which the Enquiry Officer conducted the said enquiry proceeding ex-parte against the concerned workman and submitted his report holding the concerned workman guilty of the charges. Thereafter the Disciplinary Authority dismissed the concerned workman from his service w.e.f. 27-7-1976 as he did not approach the management from the date of his absence i.e. 4-12-75. Thereafter in the year 1992 i.e. after lapse of 16 years the concerned workman raised an industrial dispute before the A.L.C.(C), Dhanbad through the sponsoring union. The Conciliation Officer as well as the competent authority i.e. the Ministry of Labour were fully satisfied that the concerned workman did not bother for his service and not only remained absent for more than one year without participating in the domestic enquiry but remained indifferent towards his dismissal and raised the present dispute in the year 1992 which is more than 16 years from the date of cause of action. Such abnormal delay, they have submitted not only defeated the remedy but also extinguished the right, if any, to a workman in raising the dispute. However, as the Ministry refused to refer the dispute before the Tribunal for adjudication the sponsoring union preferred a writ petition before the Hon'ble High Court and the Hon'ble Court quashed the order passed by the Ministry and directed to refer the case before the Tribunal for consideration. They submitted that the claim of the concerned workman after such a long delay finds no basis at all on the ground that neither he appeared in course of enquiry proceeding nor he submitted any representation before his order of dismissal for his reinstatement. He also did not raise any dispute after the order of dismissal passed by the Disciplinary Authority. Subsequently approach of the concerned workman, the management submitted, is the outcome of his sweet will for which the same cannot be entertained. Accordingly, management submitted prayer to pass an award rejecting the claim of the concerned workman.

Point for consideration :

4. "Whether the Union is justified in demanding from the management of Kessargarh Colliery of M/s. BCCL reinstatement (after 16 years) of Shri B.C. Mahato? If so, to what relief is the concerned workman entitled and from what date?"

Finding with reasons :

5. In the instant case as both the parties i.e. sponsoring union as well as the management submitted their prayer to dispose of the dispute after hearing both sides on merit there was no scope on the part of this Tribunal to consider if the domestic enquiry held against the concerned workman was fair, proper and in accordance with the principle of natural justice and accordingly, to that effect an order was passed vide order No. 28 dated 12-7-2002. It transpires from the record that the concerned workman as well as the management examined one witness each being WW-1 and MW-1 to substantiate their respective claims.

Considering the evidence of WW-1 and MW-1 and also considering the facts disclosed in the pleadings of both sides I find no dispute to hold that the concerned workman was a Provident Fund Clerk at Kessargarh colliery in the year 1975. It is admitted fact that the concerned workman remained himself absent from duty w.e.f. 4-12-75. It is the claim of the concerned workman that as he fell seriously ill he could not attend to his duty w.e.f 4-12-75 and to that effect he intimated the management and to that effect he relied on a copy of letter marked Ext. W-2. On the contrary, the management submitted that the concerned workman started remaining himself absent from duty without giving any information or taking any prior permission from the management. They further submitted that as the concerned workman remained himself absent from duty for more than 10 days without giving any intimation or taking prior permission of the management a charge-sheet was issued to him dated 20-12-75 which

during evidence of MW-1 was marked as Ext. M-1. Considering Ext. W-2 it transpires that stating the ground of his ailment an intimation was given to the management with a prayer for granting him sick leave. From this letter there is no scope to ascertain if the same was handed over to the management or it was sent by post. As no postal receipt is forthcoming there is no sufficient ground to hold that it was sent through post. The concerned workman also did not make any submission to the effect that he sent this letter to the management by post. As the copy of this letter bears no official seal and endorsement, I am of the doubt it at all any letter intimating his sickness was handed over to the management. However, the concerned workman admitting the fact of receipt of charge-sheet in para 4 of his written statement submitted that he gave a reply to that charge-sheet narrating the ground of his absence. The alleged that inspite of ascertaining the reason of his absence in the reply to the chargesheet the management instead of accepting the same decided to hold domestic enquiry against him appointing an Enquiry Officer. Considering the evidence of MW-1 and also WW-1 I find no dispute to hold that the said enquiry proceeding was conducted by the Enquiry Officer ex-parte and after completing the enquiry proceeding the said Enquiry Officer submitted his report to the Disciplinary Authority holding the concerned workman guilty to the charge. The enquiry proceeding paper during evidence of WW-1 was marked as Ext. M-2 and the report submitted by the Enquiry Officer was marked as Ext. M-3. From the report it transpires clearly that the Enquiry Officer before holding enquiry issued notice to the concerned workman by registered post with A.D. The enquiry report further shows that the concerned workman though received notice did not appear on the date of hearing fixed on 15-5-76. On the contrary, he applied for adjournment on the ground of some urgent work at home. Thereafter another date was fixed for hearing and the said date also was communicated to the concerned workman by letter being No. KGC/Enquiry-480/76 dated 19-5-1976 which was also received by him. On the said date of hearing i.e. 22-5-76 the concerned workman sent an application through his brother requesting the Enquiry Officer to extend further time for more than one month on the ground of his illness. As the said petition was not supported by medical certificate and as his submission was contradictory in relation to his previous letter dated 18-5-76 the Enquiry Officer did not consider such prayer and heard the management's witness ex-parte and closed enquiry proceeding and thereafter submitted his report holding the concerned workman guilty to the charges. It is the contention of the management that after considering the report of the Enquiry Officer and also considering all other aspects the Disciplinary Authority dismissed the concerned workman from service vide letter dated 27-6-76. The letter of dismissal during evidence of MW-1 was marked as Ext. M-4. Considering the enquiry report it reveals clearly that inspite of receiving intimation to attend hearing of the enquiry proceeding the concerned workman taking different plea avoided to appear. It is the specific contention of the concerned workman that as he suddenly fell ill he could not attend to his duties though he sent information to that effect to the management. In course of hearing the concerned workman has failed to establish this claim satisfactorily. This witness disclosed that from 4-12-75 till 3-7-77 he was lying ill seriously. In support of this claim the concerned workman has failed to produce single scrap of medical paper. On the contrary, from the enquiry report (Ext. M-3) it transpires clearly that the first enquiry date was fixed on 13-5-76 but the concerned workman instead of facing the enquiry proceeding submitted an application for adjournment of hearing on the ground of some urgent work at home. Thereafter the Enquiry Officer fixed another date i.e. 22-5-76 for taking up hearing of the enquiry proceeding. On that date the concerned workman remained himself absent taking the plea of his illness. It is seen that on two occasions the concerned workman took two different pleas. If the contention of the concerned workman is considered then there is reason to believe that the concerned workman was suffering from serious illness otherwise there was no reason to remain himself absent from duty from 4-12-75 to 3-7-77 i.e. for a period of about 8 months. It was bounden duty of the concerned workman to produce relevant medical papers to show the nature of treatment which he had to undertake during such long period. He submitted that on 4-7-77 when he went to his office with a view to resume his duty he was intimated by the management about his order of dismissal from service. If the letter dated 19/20-8-1976 marked Ext. W-5 issued by the management is taken into consideration it would expose clearly that the concerned workman was fully aware about his dismissal order and for which the management regretted to consider his prayer for reinstatement in service. Therefore, it is not a fact that the concerned workman only on 4-7-1977 came to know about his order of dismissal. WW-1 during his evidence submitted that his representation was not considered by the management in connection with his reinstatement in service he raised an industrial dispute before the A.L.C.(C), Dhanbad, for consideration. During pendency of the hearing of the conciliation proceeding this witness submitted that the Secretary of his union died and for which the said case could not be pursued. The concerned workman in support of his claim relied on certain documents marked Exts. W-2, W-3, W-4 to W-4/2. Ext. W-3 appears to be a representation submitted by the concerned workman which was turned down by the order of the management by a letter marked as Ext. W-5. Ext. W-6 is a notice issued by the A.L.C. (C), Dhanbad dated 5-8-1977 and Ext. W-7 is a reply given by the management dated 26-8-1977. It is the contention of the concerned workman that as his union leader died he could not pursue the matter and thereafter he took up the help of the present union to raise the present industrial dispute in the year 1992. It is seen that from 1977

to 1992 the concerned workman remained himself silent taking the plea only that as his union leader died in the year 1976 he could not pursue the matter. The plea taken by the concerned workman is far from the satisfactory. However, before taking into consideration of this fact let me consider whether the charge brought against the concerned workman was established or not. The charge-sheet during evidence of MW-1 was marked as Ext. M-1 which speaks clearly under which circumstances the management issued charge-sheet to the concerned workman. If para 4 of the written statement submitted by the concerned workman is taken into consideration it will be seen that he submitted reply to his charge-sheet. It is seen that the management started domestic enquiry proceeding against the concerned workman thereafter and inspite of receiving notice to that effect the concerned workman did not appear. I have already discussed this matter in details above and at this stage it is needless to discuss further. It is the specific claim of the concerned workman that due to his serious illness for such a long period he could not attend to his duty. The burden of proof rests on the concerned workman to establish the plea of his ailment. I find no hesitation to say, in view of my discussion above, that the concerned workman has failed to satisfied this Tribunal that actually he was lying ill during such long period and for which I find no scope to uphold such contention of the concerned workman.

Considering all the papers and record I am satisfied that the concerned workman without information and also taking prior permission from the management remained himself absent from duty. As such, I hold that the management was justified in dismissing the concerned workman from his service. It is a fact that the concerned workman submitted representation before the management for his reinstatement in service but his prayer was rejected and thereafter he raised an industrial dispute for conciliation. But he did not pursue his case taking the plea of death of the Secretary of his union. It is not the case of the concerned workman that after the death of the Secretary no other Secretary was appointed by the union and for which he did not get any scope to pursue the case through the union. There were also other senior office bearers through whom he could have easily pursued the case which was pending before the A.L.C. (C), Dhanbad, but he did not consider necessary to do so. He awoke from his sleep after a lapse of 16 years and decided to raise another industrial dispute against the management for conciliation. It is admitted fact that taking the ground of such long delay the Ministry rejected the prayer of the concerned workman to refer the case before the Tribunal for adjudication. Against that order the concerned workman preferred a writ petition before the Hon'ble High Court, Patna, Ranchi Bench and thereafter by order of the Hon'ble Court the Ministry has referred the case before this Tribunal for adjudication. The learned Advocate for the concerned workman referring decisions reported in 1989 Lab. I.C. 1043, 1999 (82) F.L.R. 137, 1999 (82) F.L.R. 169, 2001 L.L.R. 900 submitted that delay in raising industrial dispute cannot be considered as a ground to reject the prayer of the concerned workman. Considering the decisions referred to above there is no dispute to hold that taking the plea of delay there is little scope to reject the prayer of the concerned workman. On the contrary, the management has referred the decision reported in 2000 Lab.I.C. 703. In the said decision their Lordships in paras 6 and 7 made observation to the effect :

> "6. Law does not prescribe any time limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after lapse of about seven years of order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made. The only ground advanced by the respondent was that two other employees who were dismissed from service were reinstated. Under what circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand raised by the respondent for raising industrial dispute was ex facie bad and incompetent.
>
> 7. In the present appeal it is not the case of the respondent that the disciplinary proceedings, which resulted in his dismissal, were in any way illegal or there was even any irregularity. He availed his remedy of appeal under the rules governing his conditions of service. It could not be said that in the circumstances industrial dispute did arise or was even apprehended after lapse of about seven years of the dismissal of the respondent. Whenever a workman raises some dispute it does not become industrial dispute and appropriate Government cannot in a mechanical fasion make the reference of the alleged dispute terming as industrial dispute. Central Government lacked power to make reference both on the ground of delay in invoking the power under Section 10 of the Act and there being no industrial

dispute existing or even apprehended. The purpose of reference is to keep industrial peace and defects the very object and purposes of the Act. Bank was justified in thus moving the High Court seeking an order to quash the reference in question."

The observation of the hon'ble Court speaks clearly that delay in raising industrial dispute may be considered as a ground to reject prayer of the concerned workman. However, here in the instant case it speaks clearly that the concerned workman in course of hearing has failed to establish the charge brought against him was illegal, arbitrary and violative principle of natural justice.

6. In view of my discussions I hold that the management has sufficiently been able to prove the charge brought against the concerned workman for which there is no scope to say that they illegally, arbitrarily and violating the principle of natural justice dismissed the concerned workman from his service.

Now, the point for consideration is whether the concerned workman is entitled to get any relief under Section 11-A of the I.D. Act. According to Section 11-A the prime condition which is to be taken into consideration is whether that order of dismissal was justified or not. I have already discussed above that the concerned workman remained himself absent with effect from 4-12-1975 to 3-2-1977 without assigning any cogent ground. He has failed to produce single scrap of medical paper to show that he was in long treatment for his ailment under any Doctor. He intended to delay the hearing of the enquiry proceeding taking different grounds. Considering all the materials and evidence I have failed to find out any iota of evidence relying on which it can be seen that the concerned workman was repentant for the misconduct committed by him. Accordingly, after careful consideration of all the facts and circumstances I find no scope to say that the order of dismissal passed by the management was unjustified and for which the same deserves to be set aside.

7. Accordingly, in view of my discussions above, I do not find any cogent ground to set aside the order of dismissal passed by the management against the concerned workman invoking Section 11-A of the I.D. Act.

8. In the result the following award is rendered—

The demand of the union from the management of Kesergarh Colliery of M/s.B.C.C. Ltd. for reinstatement of Shri B. C. Mahato, concerned workman, is not justified. Hence, the concerned workman is not entitled to get any relief.

B. BISWAS, Presiding Officer.

नई दिल्ली, 12 फरवरी, 2004

का. आ. 552.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा० को० कोल लि० के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 3/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2004 को प्राप्त हुआ था।

[सं. एल-20012/506/94-आई. आर. (सी.-I)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th February, 2004

S.O. 552.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No. 3/96) of the Central Government Industrial Tribunal-cum-Labour Court II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen which was received by the Central Government on 6-2-2004.

[No. L-20012/506/94-IR (C-I)]

N. P. KESHAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 3 OF 1996

PARTIES: Employers in relation to the management of Bhowra Open Cast Project of M/s. BCCL and their Workman.

APPEARANCES:

On behalf of the workman : Mr. S. Bose, Vice-President, R. C. M.S. Union

On behalf of the employers : Mr. H. Nath, Advocate.

State : Jharkhand : Industry : Coal

Dated, Dhanbad, the 19th January, 2004.

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/506/94-I.R./(Coal-I), dated, the 4th/5th December, 1995.

SCHEDULE

"Whether the action of the management of Bhowra OCP in dismissing Sri Ramachandra Paswan, Security Guard from the service of the company w.e.f. 7-6-93 is justified? If not, to what relief the concerned workman is entitled?"

2. The case of concerned workman according to written statement submitted by the sponsoring Union on his behalf in brief is as follows :

The sponsoring union submitted that the concerned workman was a permanent employee and posted at check Post of the O.C.P. under Bhowra area. They alleged that the concerned workman was served with chargesheet No. PS/BH/OCP/93/CS/330 dt. 28-2-93 for committing misconduct on the allegation of neglect of duty, fraud and dishonesty in connection with the company's business/ property and indulged corrupt practice. They submitted that the concerned workman inspite of submitting reply to the chargesheet management did not consider necessary to accept the same and started domestic enquiry against him. They submitted that the concerned workman was on duty at Madhubani check post from 10 P.M. of 12-2-2003 to 6 A. M. of 13-8-93. Actually the concerned workman was on duty from the 2nd shift of 12-2-93 and was forced to perform duty in the subsequent shift in place of 2 persons normally kept in the night shift duty. Inspite of such performing continuous duty from 2nd shift the concerned workman performed his duty with full care and attention and during the period of the said duty no Tipper bearing No. BRM-8807 of M/s. Surendra Construction was allowed to pass and as such there was no question of his making entry about that tipper in the register. They submitted that the concerned workman remained on duty continuously for 16 hours and in course of performing that duty in the mid night for 10/15 minutes he left for the check post to attend natures call and during that time A.S.I. Sri Yadav came to the check post. They disclosed that management failed to establish the charge brought against the concerned workman by adducing cogent evidence. Even they did not consider necessary to examine the driver of that Tipper though arrested by the police. It has been further disclosed by them that there are other roads by which Truck tipper can reach near Bhowra Rly. Station without passing through that check post. They alleged that the enquiry officer without considering all these important facts completed the domestic enquiry and submitted report holding the concerned workman guilty to the charges. They alleged that the enquiry officer submitted his report, illegally, arbitrarily and violating the principle of natural justice. They further alleged that the Disciplinary authority also without considering all aspects relying on the perfunctory report of the enquiry Officer dismissed the concerned workman from service by letter No. PS/BH/OCP/93/3569 dt. 3/7--6-93. Accordingly the concerned workman raised industrial dispute through the sponsoring union before the ALC(C) for conciliation which ultimately resulted reference to this Tribunal by the Ministry for adjudication.

3. Management on the contrary after filing W.S.-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in the written statement submitted on behalf of the concerned workman. They submitted that the concerned workman Ramchandra Paswan as Security Guard was posted at Mahulbani check post from 10 P.M. to 6 A. M. on 12-2-93. As security guard his duty was to allow such trucks and vehicles to carry coal of the company with proper documents. They submitted that local police at about 1.30 A. M. on 13-2-93 detained one tipper fully loaded with Coal on the road just after crossing the check post where the concerned workman was posted on duty. During enquiry it revealed that the said tipper which was fully loaded with coal of the company had no authority to go through that route. Accordingly, the concerned workman was issued with the chargesheet for negligence of his duty committing fraud and dishonesty and indulging in corrupt practices in connection with the business of the company. They submitted further that as the reply to chargesheet given by the concerned workman was not satisfactory necessary order was issued to hold domestic enquiry against the concerned workman. It has been submitted by them that full opportunity was given to the concerned workman by the enquiry officer to defend his case and the enquiry officer conducted the said enquiry fairly, properly and in accordance with the principle of natural justice and after completion of the enquiry he submitted report holding the concerned workman guilty of the charges. They submitted that the disciplinary authority did not commit any illegality or violated the principle of natural justice in dismissing the concerned workman from his service.

Accordingly they submitted their prayer to pass award rejecting the claim of the concerned workman.

4. Points to be decided :

"Whether the action of the management of Bhowra OCP in dismissing Sri Ramachandra Paswan, Security Guard, from the service of the company w.e.f. 7-6-93 is justified? If not, to what relief the concerned workman is entitled?"

5. Finding with reasons :

It transpires from the record that before taking up hearing of this case on merit the issue on domestic enquiry conducted by the enquiry officer was taken up for consideration with a view to judge if the said domestic enquiry held against the concerned workman was fair, proper and in accordance with the principle of natural justice or not. By order No. 45 dt. 17-10-03 the said issue was disposed of on hearing of both sides and it was observed that domestic enquiry held against the concerned workman by the enquiry officer was fair, proper and in accordance with the principles of natural justice.

6. Here on merit the point for consideration is if the management have been able to establish the charge brought against the concerned workman and if so whether the concerned workman is entitled of any relief U/S. 11A of the I.D. Act. considering the facts disclosed in the pleadings of both sides and also considering materials on record I find no dispute to hold that the concerned workman as security guard was posted at Mahulbani check post under Mahuda area during 3rd shift duty started from 10 P.M. on 12-2-93 to 6 A. M. of 13-2-93. Duty of the security

guard posted at the said check post was to see that no truck or vehicle is allowed to carry coal without valid permit of the colliery management. It is the specific allegation of the management that on the night of 13-2-93 a tipper bearing No. BRM-8807 of M/s. Surendra Construction was detained on the read just outside the said check post at about 1.30 A.M. at night fully loaded with coal having no valid permit issued by the inanagement for carrying the same. As the concerned workman Ramachandra Paswan was posted there as Security guard he could not avoid his responsibility to explain how he allowed the said tipper to pass through that check post loaded with unauthorised coal. Accordingly, for negligence of his duty and also for committing fraud and dishonesty in connection with the company, business and property as well as for indulging corrupt practices management issued chargesheet to him bearing No. PS/BH/OCP/95/CS 330 dt. 28-2-93.

7. The chargesheet during evidence of MW-1 was marked as Ext. M-1. the said chargesheet speaks as follows : No. PS/BH/OCP/95/CS 330 dt. 23-2-93.

To

Sri Ramchandra Paswan,

Security Guard,

Bhowra O.C.P.

Sub : Memo of Chargesheet.

I hereby require you to submit your explanation in writing as to why disciplinary action shall not be taken against you under clause 26.1.2, 26.1.11, 26.1.13 and 26.1.20 of the certified standing orders for the workman of this establishment of BCCL by which you are governed on the following allegations.

On 12-2-93, you were on duty at Mahulbani Check post and your duty was from 10 P.M. to 6 A.M. of 13-2-93. It has been reported that one Tipper bearing No. BRM-8807 of M/s. Surendra Construction which was being utilised to carry coal from 3 Pit OCP Coal Dump yeard to 4 No./5 No. Siding was seized by Sudamdih Police officials on the spot in between Bhowra Rly. Stn. and Birsa Bridge and this truck was fully loaded with coal carried from the depot of 4B extension.

From the above it is clear that the said truck was seized by Sudamdih Police at about 1.30 P.M. of 13-2-93 near Birsa Bridge passed through the Mohulbani Check Post where you were on duty.

On verification it is detected that there was no entry in the records/register maintained by you at Mohulbani check post during duty hours. Moreover there was no supporting documents regarding the truck and the coal loaded in the said truck with the driver at the time of seizure by the Sudamdih Police officials and neither the driver could produce anything as authentic for such coal loaded in the truck. You have also allowed the truck to pass through check post without making entry in the concerned register, the reason best know to you. It indicated your negligence of duty, dishonesty in connection with the company's business and property and also connivance for such act in illegal means.

If the above charges on the allegations are proved that would constitute misconducts under the following clauses of the certified standing orders.

26.1.2" . . . . . Neglect of duty . . . . . " 26.1.11" . . . . . fraud or dishonesty in connection with the company's business or property"

26.1.13" . . . . . of indulging incorrupt practices."

26.1.20" Any breach mines act 1952 or any other Act or any Rules, Regulations or byelaws thereunder or of any standing order."

It is admitted fact that the concerned workman submitted his reply to the chargesheet but as the reply given by him was not satisfactory management decided to hold domestic enquiry against the concerned workman. Considering the enquiry proceeding papers I find no dispute to hold that the concerned workman fully participated in the said enquiry proceeding to defend his case.

7. It is the specific contention of the concerned workman that before the alleged incident he was forced to perform duties as security guard continuously for 16 hours. He further disclosed that in the said check post two security guards remain posted always to keep watch against pilferage of coal through that check post but on that night excepting he himself no other security guard was posted there. He further disclosed that at mid night for only 10/15 minutes he left the said check post to attend nature's call and for which he categorically denied the fact about his involvement to commit any such offence as alleged by the management. The reply to the to the chargesheet given by the concerned workman during evidence of MW-1 was marked as Ext. M-2. In para, 4,5 & 6 of the reply the concerned workman stated as follows :

"Para–4

That the reality of the actual facts and circumstances is that on 12-2-93.I was in the 2nd shift duty but suddenly and without prior information was forced to work on the night shift duty which commences from 10 P.M. to 6 A.M. Tlis sudden change was made but to deep rooted conspiracy for commission of theft in connivance with miscreants by Shri R. B. Yadav, A.S.I. On the said night of night shift Shri Rajendra Singh, Havildar and Shri Ramjee Pandey, Security Guard were on duty but the ASI, shri Yadav, released both of them from duty suddenly and falsely shown them on rest.

Para–5

That when he forced me to work continuously from 2nd shift to night shift, I objected very strongly and told him that it was not possible for me to perform

duty on the check post in the night shift alone. At about 1 A.M. Shri Yadav came to the Check Post as his residence is nearby the Check post and in the meantime I went to attend to call of nature and Shri Yadav remained in the Check Post but very cleverly he did not put his signature in the Register during a lapse of 10–15 minutes. This occurance might have happened.

"Para–6

That this malafide action of Shri Yadav reveals that he was in connivance with miscreants for commission of theft and he succeeded in allowing the Tipper without making entry in the check post register."

Therefore, it is clear from his reply that on the said night Havildar Rajendra Singh and Ramjee Pandey were scheduled to be posted on duty at the Mahulbani check post. It is the specific allegation of the concerned workman that A.S.I., R.B. Yadav released both of them from duty at the said check post suddenly taking the plea of giving them rest and forcely posted him there to perform night duty though he performed his second shift duty. It is the specific allegation of the concerned workman that A.S.I. R. B. Yadav hatched up a conspiracy against him with some ulterior motive as it was not possible for one security guard to perform night shift duty alone. He alleged that rest day of Rajendra Singh was on Saturday and of Sri Ramjee Pandey on Thursday but that arrangement was made in a calculated manner for allowing the miscreants to pilfer coal. Record shows clearly that during enquiry proceeding the concerned workman made a statement to the Enquiry officer narrating all the facts in support of his claim. I have carefully considered all the papers relating to enquiry proceedings and I have failed to find out any satisfactory reason why two security guards viz. Rajendra Singh and Ramjee Pandey who were scheduled to be posted on duty on that night had been withdrawn. No satisfactory explanation also is forthcoming why after performing eight hours duty the concerned workman again was posted for night duty alone. In this connection report of the enquiry officer (Ext. 5) may be taken into consideration. Para 5 to 8 of the enquiry report speaks as follows :

"Para–5

It is established without question that Sri R.C. Paswan Security Guard was on duty at Mohulbani check post on 12-2-93 in the IInd and IIIrd shift continuously. But the justification put forward by the management side is not very much convincing and tenable. Sri R.C. Paswan, Security Guard who was in the IInd shift on 12-2-93 at Mohalbani check Post was asked to continue in the IIIrd shift without any break and that too alone in the night shift in such a sensitive place. The other guards whose schedule day of Rest was not Friday (12-2-93) were allowed Rest on the day of incidence without written application and appropriate reasons. The check post is a most vital place and how the gravity of the same was ignored by the Security personnel, indicate a serious lapse on their part.

Para–6

There is no direct evidence either oral or documentary which could substantiate derelictation of duty on the part of Sri Paswan or his involvement in the foul game.

Para–7

Lapse is also observed in the total security system i.e. distribution of duty, handing over taking over charge, entry in the different points, loading/unloading movement of vehicle etc. where company's property/business is involved it requires tight security as well as entry system to make it a full proof so that employes posted at the different points right from a mazdoor to senior official is held responsible for the lapse on his part. The total system [Copy illegible] work as a team.

Para–8

The deposition of the witnesses both of prosecution and defence are not of great importance as their statements cannot be very much relied upon. Moreover there is a glaring difference between the statement of Sri R. B. Yadav, A.S.I. Prosecution witnesses No. (1) & Sri Ramu Pandit, driver of the vehicle bearing registration No. BRM-7750 with regard to operation of the barrier at Mahalbani check post which is pertinent point to be examined."

From the report a clear picture has come out how the incharge of that security check post was negligent in distribution duties to the security guards in the said check post knowing fully well about it is importance. The enquiry officer clearly observed that it was serious lapse on their part. Inspite of making such observation in the report the management did not consider necessary to take any step against the Security Personnel who remained incharge of distributing duties to the security guards in the said check post on that night. From the enquiry report it transpires further that there was serious contradiction in the statements of R. B. Yadav, ASI and Ramu Pandit, Driver of the vehicle bearing registration No. BRM-7750, In view of such contradictory statements the enquiry officer casted doubt about feasibility in the matter of giving importance to the confessional statement given by said Ramu Pandit.

8. Inspite of making all adverse observation in his report contained in paras 5 to 8 the enquiry officer observed that as the concerned workman was on duty in the said check post on that night when the incident took place he should be held guilty to the charges brought against him by the management.

9. It transpires that four fold charges have been brought against the concerned workman for committing misconduct under para 26:1:2, 20:1:11, 26: 13 and 26:1:20. Para 26:11:2 is in respect of neglect of duty , para 26:1:11 is in respect of fraud or dishonesty in connection with company business. Para 26:1:13 is for indulging in corrupt practices and para 26:1:20 for any breach of Mines Act, 1952 or any other act or any rules, regulations or bye-laws there under or of any standing order.

10. Onus rests absolutely on the management to establish the charges brought against the concerned workman under para 26:1:11, 26:1-13 & 26-1:26 of the certified Standing order beyond all reasonable doubt. I have not only considered all the enquiry proceeding papers but also considered the report of the enquiry officer. Considering all these materials I have failed to find out an iota of evidence relying on which there is scope to say that the concerned workman committed any fraud or dishonesty in connection with companies business or he indulged any corrupt practices or committed any breach under the Mines Act, 1952 or under any other Act or any Rules. Therefore until and unless any charge of committing misconduct under these para viz. 26:1:11, 26:1:13, & 26:1:20 of the certified standing order are proved against the concerned workman by the management beyond all reasonable doubt there is no scope find him guilty to the charges in question. It is seen that inspite of failure on the part of the management to establish the charges as mentioned above he was found guilty and for which he was dismissed from his service. Such decision of the management I consider not only is highly arbitrary and illegal but also it violated the principle of natural justice.

11. Now let me consider how far the management have been able to establish the charge brought against the concerned workman under para 26-1-2 of the Certified Standing order. Para 26-1-2 of the certified standing order relates to neglect of duty. There is no dispute to hold that the concerned workman as security guard was posted at Mahulbani check post on the night of the incident. There is also no dispute to hold that for such an important check post only one security guard i.e. the concerned workman was posted. It is seen that the concerned workman after completing his eight hours duty in that check post during second shift was again asked to remain on duty there for the whole night during third shift. It is seen that for the said night two other security guards were scheduled to be posted there on duty but without any satisfactory reason R. B. Yadav A.S.I. allowed them to go on rest though that day was not the schedule rest day for them. The report of the enquiry officer has given a vivid report to that effect.

12. The concerned workman submitted that on that night for 10/15 minutes he was not present in the check post for attending nature's call and during his absence the said incident took place. It is not the case of the management that althroughout the night the check post was unmanned for absence of the concerned workman. No evidence on the part of the management is forthcoming denying the plea taken by the concerned workman. It is fact that the checkpost for security reason is not to be unmanned. From the submission of the concerned workman as well as from the report of the enquiry officer it transpires that at night two security guards had to be posted in the said check post. No satisfactory explanation is forthcoming to show what reason compelled the management to post only one security guard there. To response nature's call is a natural phenomena. It is not possible for any person to check the nature's call for indefinite period. The concerned workman had no scope to inform anybody or to any person who remain incharge of the said check post during his absence while he left the place with a view to attend nature's call. It is seen that during night R. B. Yadav, A.S. I visited the place and he found the concerned workman absent there when the incident took place. Question is why R.B.Yadav did not remain present there for duty in the third shift when he released two security guards scheduled to be posted there on that night for duty, along with the concerned workman. Considering all the circumstances there is sufficient reason to believe that said R.B. Yadav with some ulterior motive did all these and for which he cannot be exonerated from the responsibility. I consider that it was for R. B. Yadav the said incident took place but he has got his escapes. Here the question is whether that negligence on the part of the concerned workman was intentional or unintentional. No evidence is forthcoming that the concerned workman intentionally left the check post. He left the check post only for a very short period to attend's natures call, and such absence cannot be consider as negligence of duty. On the contrary there is reason to believe that to shield themselves management have made the concerned workman a scape got and taking the plea of negligence of duty dismissed him from service which I consider not only is highly arbitrary and illegal but it violated the principle of natural just.

As such on careful consideration of all the facts and circumstances I hold that the management have failed to substantiate the charge against the concerned workman and for which he deserves benefit of doubt.

In the result, the following Award is rendered :—

"The action of the management of Bhowra OCP in dismissing Sri Ramachandra Paswan, Security Guard, from the service of the company w.e.f. 7-6-93 is not justified. Consequently, the concerned workman is entitled to be reinstated to his original post with full back wages and other consequential relief's from the date of his dismissal to the date of his reinstatement."

The management is directed to implement the Award within three months from the date of publication in the Gazette of India in the light of the observation made above.

B. BISWAS, Presiding Officer.

नई दिल्ली, 12 फरवरी, 2004

का. आ. 553.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, II, धनबाद के पंचाट (संदर्भ संख्या 114/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-02-04 को प्राप्त हुआ था।

[सं. एल. 20012/372/94-आई आर (सी-1)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th February, 2004

S. O. 553.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 114/95) of the Central Government Industrial Tribunal/ Labour Court II Dhanbad now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of B.C.C.L. and their workmen, which was received by the Central Government on 6-02-2004.

[No. L-20012/372/94-IR (C-I)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD.

PRESENT

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial dispute under Sec. 10(1)(d) of the I. D. Act, 1947.

Reference No. 114 of 1995.

PARTIES : Employers in relation to the management of Govindpur Area III of M/s. B.C.C.L. and their workman.

APPEARANCES :

On behalf of the workman : Mr. S.C. Gaur, Advocate.

On behalf of the employers: Mr. D.K. Verma, Advocate.

State : Jharkhand : Industry : Coal

Dated. Dhanbad the 19th January, 2004.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers confered on them under section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/372/ 94-IR. (Coal-I), the dated 5th September, 1995.

SCHEDULE

"Whether the action of the General Manager, Govindpur Area No. III of M/s. BCCL, P.O. Sonardih Dist. Dhanbad in dismissing Shri Rajendra Pradsad Rabidas, Security Guard (T) w.e.f. 1-12-92 is justified? If not, what relief the concerned workmen entitled to?"

2. The case of the concerned workmen according to the written statement submitted by the sponsoring union on behalf, is as follows :

It has been submitted by the sponsoring Union that the concerned workman was offered employment under Para 10.4.3. of N.C.W.A. II vide letter No. BCCL/PA-VI/ 3(8)AR-III/31/32/14541-45 dt. 25-5-92 by the Headquarter as Security Guard Cat. I after termination of the service of his father Babunath Chamar Ex-Miner/Loader on the ground of medical unfitness by the Special Medical Board by office order No. GC/X-20A/91/3490 dt. 12-7-91 of the Dy. C.M.E. Gvindpur Area.

3. They submitted that Babunath Chamar, father of the workman concerned submitted application for employment of his son in prescribed form under para 9.4.3 of NCWA-III, which was duly screened at colliery level, Area leavel and thereafter management offered employment to him. They alleged that thereafter management by letter No. G.M./Secy/Area-III/70 1714 dt. 1-12-92 terminated the service of the concerned workman on the ground that his appointment was made on the basis of wrong information furnished by his father regarding his age. It was further stated that according to the actual age which was recorded in Form-B Register his father should have been retired before he was declared medically unfit.

They alleged that taking false plea management terminated the service of the concerned workman as in the form 'B' Register as well as Service Excerpt given to Babunath Chamar his date of birth was recorded as 15-2-32. They referring the implementation instruction No. 76 submitted that if variation of age recorded in the Form B Register and their other official record come into existence in that case age of that concerned workman is to be determined by the Medical Board. Taking into consideration of Implementation instruction No. 76 management had the scope to send Babunath Chamar to Medical Board for determination of his age when it was found that his age recorded in the Form B Register was at variance with the age recorded in the Service Excerpt as well as in the I.D. Card but the management did not consider necessary to do so. They alleged that the management without issuance of chargesheet and holding domestic enquiry against him for committing alleged misconduct terminated him from service illegally, arbitrarily and violating the principle of natural justice and for which he raised an industrial dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication.

4. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegation which the sponsoring Union asserted in the written statement submitted on behalf of the sponsoring Union. They submitted that one workman Babunath Chamar

submitted an application to the management for his medical examination for determination of the suitability to continue on his original job as miner/loader and he was examined on 1-7-91 and declared medically unfit to continue on his original job. They submitted that said Babunath Chamar in his said application indicated his date of birth as 15-2-32 although his date of birth as recorded in the Form B Register was 15-2-91. They submitted that considering the date of birth disclosed in the petition as 15-2-32 he was medically examined on 1-7-91 and provided employment to the concerned workman as Security Guard (T) on probation for a period of one year in good faith considering him as dependant of Babunath Chamer under clause 9.4.3 of NCWA-IV subject to the condition that his service would be terminated in case any of the particulars furnished by them is found to be incorrect. Without any further reference. They submitted that in course of enquiry to assertain if particulars furnished by Babunath Chamer for employment of his dependent i.e. the concerned workman was correct or not it was detected that actual date of birth of the concerned workman as per Form B Register was 15-2-31. But knowing fully well of his date of birth he in his application mentioned his date of birth as 15-2-32 for consideration of the employment of his dependent as per clause 9.4.3 of N.C.W.A. Disclosing this fact management submitted that on the date of his medical examination i.e. on 1-7-91 Babunath Chamer already crossed his age of superannuation but suppressing this fact he not only misled the management but also arranged for employment of his dependant.

They submitted that as initial appointment of the concerned workman was contrary to the provision of N.C.W.A. IV as well as was unconstitutional his service was terminated according to the conditions mentioned in the letter of his appointment. They submitted that the concerned workman was on training for a period of only three months when he was terminated from his service as his initial employment was void Disclosing this fact management submitted that they did not commit any illegality or took any arbitrary decision violating the principle of natural justice in terminating the service of the concerned workman. Accordingly they submmitted prayer to pass award rejecting the claim of the concerned workman.

5. **POINTS TO BE DECIDED**

"Whether the action of the General Manager, Govindpur Area III of M/s. B.C.C.L., P.O. Sonardih, Dist. Dhanbad in dismissing Shri Rajendra Prasad Rabidas, Security Guard (T) w.e.f. 1-12-92 is justified? If not, to what relief is the concerned workman entitled?"

FINDINGS WITH REASONS

6. It transpires form the record that the concerned workman in order to substantiate his claim examined himself as witness in this case while management in support of their claim also examined one witness as MW-1.

Considering the evidence of both sides and also considering pleadings of the respective parties there is no dispute to hold that Babunath Chamer was a miner/loader under the management. It is admitted fact that the concerned workman being dependant of said Babunath Chamar got his employment as Security Guard complying the provision as laid down under clause 9.4.3 of N.C.W.A. as his father i.e. Babulal Chamer was declared unfit on medical ground. It is also admitted fact that during the probationery period management terminated the service of the concerned workman without issuance of any chargesheet and holding any domestic enquiry against him taking the plea that the concerned workman got his employment on the basis of false information relating to his date of birth given by him. Accordingly, burden of proof rests on the management to establish that the concerned workman got his employment on the basis of false information given by his father. It has been disclosed by the management that Babunath Chamer submitted an application for his medical examination for determination of his suitability to continue on his original job as miner/loader. In the said application he disclosed his date of birth as 15-2-32. It has been submited by the management that on the basis of that application wherein he declared his date of birth as 15-2-32 he was placed before the Medical Board on 1-7-91 and declared medically unfit to continue on his original job. Management disclosed that on the basis of declaration by Babunath Chamer that his date of birth was 15-2-32 appointment letter was issued in favour of the concerned workman for the post of Security Guard he was placed on Probation subject to the terms and conditions as follows :—

BCCL-PA-VI-3(8) AR. III/31/92/14541-45 dt.

Koyala Bhawan,
P.O. Koyala Nagar,
Dhanbad 13-5-92

25-5

To
The G.M.,
Govindpur Area

Sub :—Employment to one dependent of a worker who is permanent disabled due to disease in his place under para 10.4.3 of NCWA-II.

Dear Sir,

Kindly refer to your PMs/Dy. P.M.'s Note sheet/ Letter No. 4798/29 dt. 2-1-92 regarding employment to one dependent of an employee/employee who has/have been declared permanently disabled due to disease.

I am directed to inform you that the competent Authority has been pleased to accord approval for employment under above scheme to one dependent of the following employee/employees as under :—

Sl. No.	Name of the disabled employe which design.	Name of the dependant.	Job to be offered.
	Shri Babunath Chamar Ex-Miner/Loader, Govindpur Colliery.	Rajendra Prasad Rabidas. Son. Subject to verification of his original certification by the Area P.M.	Securitry Guard Ct. I.
	He will be directed to report to Security Incharge (Dhansar) for his further posting at Govindpur Area after training.		

This approval is subject to the condition that before issue of offer of appointment letter genuineness as of the dependent and his correct identity should be fully established by the P.M. of Area.

Approval is further subject to the stipulation that is case claimant (s)/are not found to be genuine or his/her/their personal particulars are found to be false further his/her/their service will be liable to be terminated with any notice or assigning any reason thereof and other normal terms of appointment under NCWA-II

The offer should contain a clear stipulation that appointment is subject to police verification in case police verification reveals adverse report candidates services will be liable for termination without assigning any reason whatsoever.

It may kindly be noted that the employment is in place of disabled employee(s).

Subject to the physical fitness of the above claiment(s) further necessary order may kindly be issued from your and under intimation to this office.

CC. Person concerned
PM/FM Govindpur Area
Security Incharge (Dhansar)
PO Govindpur Colliery.

Yours faithfully,
Sd/-
(S. SOOD)
Dy. Personnel Manager.

The said appointment letter during evidence was marked as Ext. W-1. It is the contention of the management that during enquiry it revealed from the Form B Register that date of birth of the concerned workman was 15-2-31 and not 15-2-32. Disclosing this fact management submitted that as the concerned workman got his emplolyment on the basis of false information given by the father Babunath Chamer his service was terminated as per terms and conditions laid down in his appointment letter. They disclosed further that on the date of medical examination of Babunath Chamer on 1-7-91 he was no longer in service as his due date for retirement was 15-2-91. This admission on the part of the management shows clearly how calous they were in dealing with the services of the workman, working under them. It is mandatory provision that at least before six months of superannuation of any workman notice to that effect is to be served upon him. It is seen that the management did not consider necessary to issue any such notice to him. It is really astonishing to note that instead of superannuating him from service with effect from 15-2-91 he was not only allowed to continue his service but also considered his application for medical examination. The management did not stop there. They on the basis of medical report submitted in favour of that workman, considered his petition and issued letter of appointment in favour of his son as per provision of clause 9.4.3 of N.C.W.A. It is the claim of the management that application for employment of the dependant under clause 9.4.3 is considered if that of workman before attaining his age of 58 years is declared medically unfit. If the allegation of the management is taken into consideration that Babunath Chamer declared his date of birth 15-2-92 in that case he crossed 58 years of age on the date of his medical examination on 1-7-91. Management have failed to give any satisfactory exaplanation why Babunath chamer was allowed to face his medical examination after crossing his age of 58 years.

As burden shifts on the management to show that Babunath Chamer declared his false date of birth as 15-2-92 in his application for medical examination. Therefore, this application is to be considered with all importance apart from the Form B Register wherein his date of birth was recorded. Inspite of getting ample scope management have failed to produce the said application. Accordingly, there is no scope to draw any conclusion that said Babunath Chamer gave false declaration of his age in the said application which was duly considered for employment of his dependant i.e. the concerned workman. It has been specifically asserted by the management that during enquiry they came to know that date of birth of Babunath Chamer in the Form B Register was recorded as 15-2-31 instead of 15-2-32. Inspite of claiming so the management did not consider necessary to produce the original Form B Register to show that date of birth of the concerned workman was recorded as 15-2-31. Management have failed to give any satisfactory examination about their inability to submit the said Form B Register for verification of the Tribunal. They only relied on a photo copy of the Form B Register which was not certified by the competent authority and for which there is no scope to give importance to the same.

Therefore, it is clear that management neither have been able to submit the original application wherein Babunath Chamer gave a false declaration of his age nor they have been able to produce the original Form B Register which is very much lying in their custody. As the management have failed to establish the allegation in question there is no scope to uphold their contention in the matter of termination of the concerned workman relying on the clauses incorporated in his appointment letter. It is seen that before termination management did not give slightest opportunity to the concerned workman to make his submission.

In view of the facts and circumstances discussed above I find no hesitation to say that management illegally and arbitrarily violating the principle of natural justice terminated the concerned workman from his service.

In the result the following Award is rendered :—

"The action of the General Manager Govindpur Area III of M/s. BCCL, P.O. Sonardih, Dist. Dhanbad in dismissing Shri Rajendra Prasad Rabidas, Security Guard(T) w.e.f. 1-12-92 is not justified. Consequently, the concerned workman is entitled to be reinstated to his original post with full back wages and other consequential benefits from the date of dismissal to the date of his reinstatement."

Management is directed to implement the Award within three months from the date of publication of the Award in the Gazette of India in the light of the observation made above.

B. BISWAS, Presiding Officer.

नई दिल्ली, 12 फरवरी, 2004

का. आ. 554.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, II धनबाद के पंचाट (संदर्भ संख्या 319/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-02-2004 को प्राप्त हुआ था।

[सं. एल. 20012/490/2001-आई.आर.(सी-1)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th February, 2004

S. O. 554.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 319/2000) of the Central Government Industrial Tribunal/ Labour Court II Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the managment of B.C.C.L. and their workmen, which was received by the Central Government on 6-02-2004.

[No. L-20012/490/2001-IR (C-I)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD.

PRESENT

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act, 1947.

Reference No. 319 of 2000

PARTIES : Employers in relation to the management of Bharat Coking Coal's Sijua Area and their workman.

APPEARANCES :

On behalf of the workman : None.

On behalf of the employers : Mr. D.K. Verma, Advocate.

State : Jharkhand : Industry : Coal

Dated, Dhanbad the 19th January, 2004

ORDER

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/490/ 2001 dated, the 13th December, 2001.

SCHEDULE

"Whether the action of the management of BCCL Sijua Area in not regularising Shri B. N. Viswakarma as Attendance Clerk is justified ? If not, to what relief is the concerned workman entitled and from what date ?"

2. In this reference neither the concerned workman nor his representative appeared. However, the management side though appeared through their authorised representative before this Tribunal did not submit any written statement. It is seen from the record that the instant reference was received by this Tribunal on 10-12-2001 and since then it is pending for disposal. As the concerned workman failed to appear, registered notices were issued to the workman side but inspite of issuance of notices they failed to appear before this Tribunal. They also did not even respond to the notices issued by this Tribunal. In natural courses the question will arise is what will be the fate of the reference made by the Ministry for its disposal. The reference is made by the Ministry on the basis of dispute raised by the concerned workman/union. Naturally responsibility rests with the concerned workman/union to assist the Court to dispose of the reference in issue on merit. In view of the decision of the Hon'ble Apex Court reported in 2002(94) FLR 624 it will not be just and proper to pass 'No dispute' Award when both parties remain absent. There is also no scope to answer the reference on merit suo moto in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not take any step or do not consider even to file W.S./documents such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will persue the matter suo moto with the expectations for appearance of the workman inspite of issuance of repeated registered notices. As per I.D. Act the workman excepting underprovisions of section 2A is debared from raising any industrial dispute. The disputes are mainly raised by the Union for their workman. These unions inspite of receiving notices do not care to appear before the Court for the interest of the workman and as a result they have

been deprived of getting any justice. Untill and unless the attitude of the Union is changed I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the workman/union but yielded no result. This attitude shows clearly that the workman side is not interested to proceed with the hearing of the case for disposal on merit.

Under the facts and circumstances, I do not find any sufficient reason to drag on the case for an indefinite period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 12 फरवरी, 2004

का. आ. 555.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, II धनबाद के पंचाट (संदर्भ संख्या 293/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-02-2004 को प्राप्त हुआ था।

[सं. एल.-20012/192/2001-आई.आर.(सी-1)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th February, 2004

S. O. 555.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 293/2001) of the Central Government Industrial Tribunal/Labour Court II Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workmen, which was received by the Central Government on 6-02-2004.

[No. L-20012/394/2001-IR (C-I)]

N. P. KESHAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2)
DHANBAD.

PRESENT:

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial dispput reference under Section 10(1)(d) of the I. D. Act, 1947.

Reference No. 293 of 2001

PARTIES : Employers in relation to the management of Kusunda Area of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : None.

On behalf of the employers : Mr. R. N. Ganguly, Advocate.

State : Jharkhand : Industry : Coal

Dated, Dhanbad the 19th January, 2004.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/394/2001-IR (C-I) dated, the 7th November, 2001.

SCHEDULE

"Whether the action of the management of M/s. BCCL in transferring Sri Uttam Chand Das from the post of Banksman to Onsetter is fair and justified and in conformity with the provisions of the I.D. Act, 1947 and the certified standing orders of the establishment? If not, to what relief is the concerned workman entitled ?"

2. In this reference neither the concerned workman nor his representative appeared. However, the management side though appeared through their authorised representative before this Tribunal did not submit any Written Statement. It is seen from the record that the instant reference was received by this Tribunal on 28-11-2001 and since then it is pending for disposal. As the concerned workman failed to appear, registered notices were issued to the workman side but inspite of issuance of notices they failed to appear before this Tribunal. They also did not even respond to the notices issued by this Tribunal. In natural course the question will arise is what will be fate of the reference made by the Ministry for its disposal. The reference is made by the Ministry on the basis of dispute raised by the concerned workman/union. Naturally resposnsibility rests with the concerned workman/union to assist the Court to dispute of the reference in issue on merit. In view of the decision of the Hon'ble Apex Court reported in 2002(94) FLR 624 it will not be just and proper to pass 'No dispute' Award when both parties remain absent. There is also no scope to answer the reference on merit *suo moto* in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not consider even to file W.S./documents such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will persue the matter *suo moto* with the expectations for appearance of the workman inspite of issuance of repeated registered notices. As per I.D. Act the workman excepting under provisions of Section 2A is debarred from raising any industrial dispute. The disputes are mainly raised by the Union for their workman. These unions inspite of receiving notices do not care to appear before the Court for the interest of the workman and as a result they have been deprived of getting any justice. Untill and unless the attitude of the Union is changed I consider that this uncalled for situation will

persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the workman/union but yielded no result. This attitude shows clearly that the workmanside is not interested to proceed with the hearing of the case for disposal on merit.

Under the facts and circumstances, I do not find any sufficient reason to drag on the case for an indefinite period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 12 फरवरी, 2004

का. आ. 556.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, II धनबाद के पंचाट (संदर्भ संख्या 150/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-02-2004 को प्राप्त हुआ था।

[सं. एल.-20012/402/98-आई.आर.(सी-1)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th February, 2004

S. O. 556.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 150/1999) of the Central Government Industrial Tribunal/ Labour Court II Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the managment of B.C.C.L. and their workman, which was received by the Central Government on 6-02-2004.

[No. L-20012/402/98-IR (C-1)]

N. P. KESHAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD.

PRESENT :

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial disputs reference under Section 10(1)(d) of the I. D. Act, 1947.

Reference No. 150 of 1999

PARTIES : Employers in relation to the management of Jealgora Colliery of M/s. BCCL and their workman.

APPEARANCES :

On behalf of the workman : None.

On behalf of the employers : Mr. D. K. Verma,

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 19th January, 2004.

ORDER

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/402/ 98-IR (C-I) dated, the 22nd February, 1999.

SCHEDULE

"Whether the action of the management of Jealgora Colliery of M/s. BCCL in dismissing Sri Paroo Manjhi, Ex-Loader w.e.f. 14-8-96 from the services of the company is justified ? If not, to what relief the workman is entitled ?"

2. In this reference neither the concerned workman nor his representative appeared. However, the management side though appeared through their authorised representative before this Tribunal did not submit any Written Statement. It is seen from the record that the instant reference was received by this Tribunal on 8-3-99 and since then it is pending for disposal. As the concerned workman failed to appear, registered notices were issued to the workman side but inspite of issuance of notices they failed to appear before this Tribunal. They also did not even respond to the notices issued by this Tribunal. In natural course the question will arise is what will be the fate of the reference made by the Ministry for its disposal. The reference is made by the Ministry on the basis of dispute raised by the concerned workman/union. Naturally resposnsibility rests with the concerned workman/union to assist the Court to dispute of the reference in issue on merit. In view of the decision of the Hon'ble Apex Court reported in 2002(94) FLR 624 it will not be just and proper to pass 'No dispute' Award when both parties remain absent. There is also no scope to answer the reference on merit *suo moto* in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not consider even to file W.S./documents such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will persue the matter *suo moto* with the expectations for appearance of the workman inspite of issuance of repeated registered notices. As per I.D. Act the workman excepting under provisions of Section 2A is debarred from raising any industrial dispute. The disputes are mainly raised by the Union for their workmen. These unions inspite of receiving notices do not care to appear before the Court for the interest of the workman and as a result they have been deprived of getting any justice. Untill and unless the attitude of the union is changed I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient

opportunities had been given to the workman/union but yielded no result. This attitude shows clearly that the workman side is not interested to proceed with the hearing of the case for disposal on merit.

Under the facts and circumstances, I do not find any sufficient reason to drag on the case for an indefinite period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 12 फरवरी, 2004

का. आ. 557.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 167/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-02-2004 को प्राप्त हुआ था।

[सं. एल.-20012/5/2001-आई.आर.(सी-1)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th February, 2004

S. O. 557.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 167/2001) of the Central Government Industrial Tribunal/ Labour Court II Dhanbad now as shown in the Annexure, in the industrial Dispute between the employers in relation to the managment of B.C.C.L. and their workmen, which was received by the Central Government on 6-02-2004.

[No. L-20012/5/2001-IR (C-1)]

N. P. KESHAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) DHANBAD.

PRESENT

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act., 1947.

REFERENCE No. 167 OF 2001

PARTIES : Employers in relation to the management of Sijua Area of M/s. BCCL and their workman.

APPEARANCES :

On behalf of the workman	: None.
On behalf of the employers	: Mr. H. Nath, Advocate.
State : Jharkhand	: Industry : Coal

Dated. Dhanbad the 19th January, 2004.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/5/ 2001-C-I dated 22-5-2001.

SCHEDULE

"Whether the demand of the RCMS from the management of BCCL Sijua Area for regularisation of Smt. Jaidun Khatun as Shale Picker or Chaprasi is proper and justified ? If so, to what relief she entitled and from what date ?"

2. In this reference neither the concerned workman nor his representative appeared. However, the management side though appeared through their authorised representative before this Tribunal did not submit any written statement. It is seen from the record that the instant reference was received by this Tribunal on 3-7-2001 and since then it is pending for disposal. As the concerned workman failed to appear, registered notices were issued to the workman side but inspite of issuance of notices they failed to appear before this Tribunal. They also did not even respond to the notices issued by this Tribunal. In natural courses the question will arise is what will be the fate of the reference made by the Ministry for its disposal. The reference is made by the Ministry on the basis of dispute raised by the concerned workman/union. Naturally responsibility rests with the concerned workman/union to assist the Court to dispose of the reference in issue on merit. In view of the decision of the Hon'ble Apex Court reported in 2002(94) FLR 624 it will not be just and proper to pass 'No dispute' Award when both parties remain absent. There is also no scope to answer the reference on merit suo moto in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not take any step or do not consider even to file W.S./documents such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will persue the matter *suo moto* with the expectations for appearance of the workman inspite of issuance of repeated registered notices. As per I.D. Act the workman excepting under provisions of Section 2A is debared from raising any industrial dispute. The disputes are mainly raised by the Union for their workmen. There unions inspite of receiving notices do not care to appear before the Court for the interest of the workman and as a result they have been deprived of getting any justice. Untill and unless the attitude of the union is changed I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the workman/union but yielded no result. This attitude shows clearly that the workman side is not interested to proceed with the hearing of the case for disposal on merit.

Under the facts and circumstances, I do not find any sufficient reason to drag on the case for an indefinite period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 12 फरवरी, 2004

का. आ. 558.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टिस्को के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 105/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-02-2004 को प्राप्त हुआ था।

[सं. एल-20012/59/97-आई. आर. (सी-I)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th February, 2004

S. O. 558.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 105/1998) of the Central Government Industrial Tribunal-cum-Labour Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of TISCO and their workman, which was received by the Central Government on 6-02-2004.

[No. L-20012/59/97-IR(C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference under Sec. 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

REFERENCE NO. 105 OF 1998.

Employers in relation to the management of Malkera Colliery of M/S. TISCO.

AND

Their Workmen.

PRESENT: Shri. B. Biswas. Presiding Officer.

APPEARANCES:

For the Employers : Shri D. K. Verma, Advocate.

For the Workman : Shri D. Mukherjee, Advocate & Shri K. Chakravarty, Advocate.

State : Jharkhand. Industry : Coal.

Dated, the 23rd January, 2004.

AWARD

By Order No. L-20012/59/97-IR-Coal-I dated 13-4-1998 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Malkera Colliery of M/s. TISCO in dismissing the services of Sri Ram Lakhan Dusadh, Mining Sirdar, T. No. 60831 of Malkera Colliery w.e.f. 1-11-94 is justified? If not, to what relief the concerned workman, Sri Ram Lakhan Dusadh is entitled?"

2. The case of the concerned workman according to the written statement submitted by the sponsoring union on his behalf, in brief, is as follows:—

The sponsoring union submitted that the concerned workman was originally appointed as permanent miner against permanent vacancy at Malkera colliery on 11-7-1960. They alleged that the management illegally and arbitrarily and without affording any opportunity to the concerned workman recorded his date of birth in the official record as 8-7-1930 and that fact he came to know when an Identity Card was issued to him. Accordingly he raised strong objection and asked the management for correction of his date of birth as 8-7-40. Thereafter the management instead of rectifying his date of birth as 8-7-40 forced him to appear before the Medical Examination Board of the management and the said Medical Examination Board in utter violation of the provisions of the medical jurisprudence and also without holding ossification test determined his age as 48 years in the year 1985 and for which relying on the said medical report the management assessed his date of birth as 17-4-1937. They disclosed that the concerned workman represented before the management against the illegal and arbitrary determination of age by the Medical Board without accepting his date of birth which was recorded in school leaving certificate. They submitted further that the concerned workman submitted his Gas Testing Certificate and Mining Sirdar Certificate issued by DGMS before the management wherein his date of birth was recorded as 8-7-1942 and requested the management for correction of his date of birth relying on the said two certificates. They alleged further that instead of rectifying the date of birth of the concerned workman as 8-7-42 recorded in the Gas Testing Certificates as well as in Mining Sirdar, Certification issued a charge-sheet dated 15-4-94 to him on the allegation of tampering with the date of birth in the Mining Sirdar Certificate and GasTesting Certificates relying on the report of the Mining Department. The concerned workman submitted his reply wherein he categorically denied the allegation of tampering of his date of birth in those two certificates but the management without accepting his reply started departmental enquiry against him. They submitted that owing to serious illness of the wife of the concerned workman and thereafter of the concerned workman he submitted representation to

the Enquiry Officer to adjourn hearing of the enquiry proceeding for certain period but the Enquiry Officer without paying any heed to his representation conducted hearing of the domestic enquiry proceeding ex-parte and submitted an arbitrary report holding him guilty to the charges violating the principle of natural justice. They alleged that on the basis of perverse finding of the Enquiry Officer the concerned workman was dismissed by the management without giving him any opportunity to hear. They further disclosed that before the dismissal of the concerned workman, the management did not consider necessary to supply copies of the enquiry report and enquiry proceeding papers to him and for which he was seriously prejudiced. Thereafter the concerned workman submitted his representation before the management for re-calling that illegal and arbitrary order of dismissal, but the management did not consider his prayer and for which he raised an industrial dispute before the A.L.C. (C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication.

Accordingly, the sponsoring union submitted prayer on behalf of the concerned workman to pass award directing the management to reinstate the concerned workman to his service w.e.f. 1-11-94 with consequential benefits.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workman. They submitted that the concerned workman at the time of his appearing in the examination for Gas Testing Certificate and Mining Sirdar Certificate disclosed his date of birth as 8-7-1930. Thereafter he was issued Gas Testing Certificate No. 22856 dated 5-7-69 and Mining Sirdar Certificate No. 30868 dated 7-7-71. They also submitted that at the time of his initial employment he also disclosed his date of birth as 23-9-1930 and the same was recorded in all the documents of the company including the service card. The management admitted that subsequently the concerned workman approached for correction of his date of birth in his service record claiming that he declared wrongly his date of birth at the time of initial employment due to mistake and further prayed for getting the same corrected with the help of medical examination. The management considering his prayer referred him before the Medical Board and his medical examination was held on 17-4-85. The said Medical Board on that date assessed his age as 48 years. On the basis of the age assessed by the Medical Board his date of birth was corrected as 17-4-1937 by order of the management dated 5-6-85. They disclosed that the concerned workman was not satisfied with the advantage given to him by the management by correcting his date of birth from 23-9-30 to 17-4-37 and he was actuated by greed and dishonest and wanted to make out a further case of getting his date of birth corrected on the basis of Mining Sirdar Certificate and Gas Testing Certificate and altered the date of birth from 8-7-30 to 8-7-42. They submitted that the Secretary, Board of Mining Examination issued a memorandum dated 21-8-91 calling explanation from him for getting the date of birth changed in his Mining Sirdar Certificate from 8-7-30 to 8-7-42 in violation of provision of law. That change of date of birth was detected at the time of medical examination of the concerned workman under the provision of Regulation 28 of the Coal Mines Regulations, 1957 on 26-7-91. Accordingly, the concerned workmen by letter dated 24-9-91 was directed to submit his original Gas Testing Certificate to the Secretary, Board of Mining Examination as per provision of law. The Secretary, Board of Mining Examination observed that there was tampering of the date of birth from 8-7-30 to 8-7-42 and referred the matter to the Board by letter dated 24-8-92 and the certificates were accordingly seized by the office. They further submitted that after necessary enquiries and after the decision of the Board of Mining Examination, the Secretary issued a letter dated 17-3-94 to the management stating that the concerned workman was found guilty of tampering with the Mining Sirdar and Gas Testing Certificates for changing the date of birth from 8-7-30 to 8-7-42 and suggested to take action against him. Not only the certificates of the concerned workman were seized but the same were not re-validated by the Board as he has already crossed the age of superannuation on 8-7-90 as per the provisions of law. They alleged that by such act the concerned workman not only committed misconduct of dishonesty and committed offence for falsification of the records punishable under the provision of the Mines Act, 1952, but also became unsuitable to be employed as a Mining Sirdar, as his statutory certificates were not re-validated by the Board of Mining Examination.

Accordingly, they issued a chargesheet being No. 48/94 dated 14/16-4-94 calling explanation from him for tempering with the date of birth recorded in the Mining Sirdar Certificate and Gas Testing Certificate which amounted to fraud and dishonesty as well as offence under the provisions of the Indian Panel Code and Mines Act, 1952. As the performance of duties of a Mining Sirdar in a Coal Mine depends on existence of valid Mining Sirdar Certificate and Gas Testing Certificate, he could not be allowed to continue further. As the misconduct was of serious nature the concerned workmen was kept under order of suspension pending enquiry, as per Certified Standing Orders of the Company. They admitted that the concerned workmen submitted his reply to the chargesheet but as it was found to be unsatisfactory under official order a departmental enquiry was conducted against by the Enquiry Officer wherein he was found guilty to the charges. They submitted that before taking up hearing of the enquiry proceeding the Enquiry Officer issued several notices to the concerned workmen for causing his

appearance but he deliberately avoided to attend the enquiry and for which the Enquiry Officer had no alternative but to hold the enquiry proceeding ex-parte. The management further disclosed that considering the report submitted by the Enquiry Officer and also considering all aspects it was considered fit to dismissed the concerned workmen from his service and accordingly by order dated 29/31-10-94 he was dismissed from service w.e.f. 1-11-94. They further submitted that the order of dismissal passed against the concerned workman from his service was legal, bonafide and justified and for which he is not entitled to get any relief.

Points to be decided

4. "Whether the action of the management of Malkera Colliery of M/S. TISCO Ltd. in dismissing the service of Shri Ram Lakhan Dusadh, Mining Sirdar, T.No. 60831 of Malkera Colliery with effect from 1-11-94 is justified? If not, to what relief the concerned workman, Ram Lakhan Dusadh is entitled?"

Finding with reasons

5. It appears from the record that before taking up hearing on merit, the hearing on preliminary point was taken up to consider whether the domestic enquiry held against the concerned workman was fair, proper and in accordance with principle of natural justice. Vide order dated 19-6-2003 it was considered that the domestic enquiry held against the concerned workman was fair, proper and in accordance with the principle of natural justice and for which at this stage I consider it needless to re-discuss the issue on preliminary point. Here the point for consideration is whether the management have been able to substentiate the charge brought aginst the concerned workman and if so whether the concerned workman is entitled to get any relief under Sec. 11-A of the Industrial Disputes Act.

6. It is admitted that the concerned workman got his appointment on 11-7-1960 as Miner at Malkera colliery under the management. As per para 3 of the written statement submitted by the concerned workman it is his contention that as per school leaving certificate his date of birth was 8-7-1940. He disclosed that at the time of his entry in the service instead of recording his actual date of birth the managment recorded his date of birth in the official record as 8-7-30. Accordingly he submitted a representation to the concerned management for rectification of his date of birth. It is the contention of the concerned workman that instead of rectification of his date of birth in the official record as per school leaving certificate the management asked him to appear before the Medical Board for determination of his age. The management supporting the contention of the concerned workman disclosed that when a representation was made by the concerned workman for rectification of his date of birth in order to avoid further anomely they asked the concerned workman to appear before the Medical Board for assessment of his age and the concerned workman was examined by the Medical Board on 17-4-85 and as on that his age was assessed as 48 years and relying on the said report of the Medical Board the Date of birth of the concerned workman was re-assessed as 17-4-1937. This fact is not the subject of the dispute. The subject-matter of the dispute is that the concerned workman tampared the date of birth recorded in the Gas Testing Certificate and Mining Sirdar Certificate issued to the concerned workman by D.G.M.S. further submitted his claim for rectification of his date of birth as 8-7-1942. It is admitted fact that Gas Testing Certificate No. 22856 dated 5-7-69 and Mining Sirdar Certificate No. 30868 dated 7-7-71 were issued to the concerned workman by DGMS. The Mining Sirdar and Gas Testing Certificates during evidence of the concerned workman were marked as Ests. W-2 and W-3. It is the contention of the management that the Secretary, Board of Mining Examination issued a memorandum dated 21-1-91 calling explanation from the concerned workman for getting the date of birth changed in his Mining Sirdar Certificate and Gas Testing Certificate from 8-7-30 to 8-7-42 in violation of the provisions of law and accordingly he was directed by a letter dated 24-9-91 to submit his original Gas Testing Certificate to the Secretary, Board of Mining Examination as per provision of law. They further alleged that the Secretary, Board of Mining Examination observed that there was tampering of date of birth from 8-7-30 to 8-7-42 and referred the matter to the Board by letter dated 24-8-42 and the said certificates of the concerned workman were seized by the office. The management further submitted that over that allegation necessary enquiry was taken up and thereafter on taking decision by the Secretary, Board of Mining Examination issued a letter dated 17-3-94 to the management stating that the concerned workman was found guilty of tampering with Mining Sirdar Certificate and Gas Testing Certificate and changing the date of birth from 8-7-30 to 8-7-42. The Board of Mining Examination seized the certificate and did not re-validate the same as the concerned workman crossed the age of superannuation on 8-7-90 as per provision of law. It is the contention of the management that as the concerned workman committed misconduct on the ground of committing fraud and dishonesty in connection with the company's business under Clause 19(2) of the Standing Orders a charge-sheet dated 15-4-94 was issued to him with a direction to submit his explanation within 72 hours of receipt of the same. The concerned, workman, do doubt, submitted his reply to the charge brought against him but as his reply was not satisfactory the management decided to hold domestic enquiry against the concerned workman and for that reason they appointed one Enquiry Officer. It is the contention of the management that inspite of issuance of notice and also on receipt of the same as the concerned workman did not appear, the Enquiry Officer conducted

the domestic enquiry ex-parte and submitted his report holding the concerned workman guilty to the charges. The copy of the charge-sheet during evidence of MW-1 was marked as Ext. M.1. The charge-sheet speaks as follows :

> "It has been reported by the Office of the Directorate General of Mines Safety that during the course of your Statutory Medical Examination, held on 26-7-1991 by the Board of Mining Examination, DGMS, Dhanbad, in connection with the re-validation of your Mining Sirdar's Certificate, it was detected, on verification, that you have tampered with your date of birth recorded in the Mining Sirdar's Certificate No. 30868 dated 7-7-71 and Gas Testing Certificate No. 22856 dated 5-7-69 granted to you with ulterior motive of personal gain thereby altering the recorded date of birth from 8-7-1930 to 8-7-1942 though your date of birth was already corrected as 17-4-1937 in our records in 1985 and you were informed accordingly in writing. The aforesaid statutory certificates have since been seized by the above Directorate.
>
> The above act on your part amounts to fraud and dishonesty in connection with the Company's business which is a misconduct under Clause 19(2) of the Company's Standing Orders.
>
> You are therefore, hereby suspended pending enquiry with immediate effect and shall be paid subsistance allowance as per statute.
>
> You are allowed 72 hours from the date of receipt here of to give your explanation. Any representation that you may make in this connection will be taken into consideration before passing orders."

From the cross-examination of WW-1 it transpires that the son of the concerned workman received the notice and acknowledged its receipt by putting his signature on A.D. Card. The A.D. card bearing the signature of the son of the concerned workman, Soraj Kumar Prasad, during his evidence was marked Ext. M-5. Therefore, it is clear that the concerned workman was very much aware about the date of hearing of the enquiry proceeding but inspite of getting knowledge of the same he did not consider necessary to appear. The concerned workman, however, took a plea that during that period his wife was seriously ill and thereafter he also fell seriously ill and for which it was not possible on his part to attend enquiry proceeding and to that effect he gave intimation to the management. In support of this claim in course of his evidence before this Tribunal he did not consider necessary to produce a single scrap of paper. As such, I find it difficult to uphold his contention that on the ground of illness of his wife as well as of his ailment he could not attend the enquiry proceeding. On the contrary, in absence of any sufficient ground there is reason to believe that the concerned workman inspite of receiving the notice avioded to appear before the Enquiry Officer for getting his participation in the enquiry proceeding. Accordingly, the Enquiry Officer conducted the enquiry procedding ex-parte and submitted his report. During enquiry proceeding the Enquiry Officer considered the initial date of birth of the concerned workman recorded in the official record as 23-9-30. He also considered the representation submitted by the concerned workman to the management for correction of his date of birth relying on which he was sent to the Medical Board for assessment of his age. As per assessment of the age of the concerned workman by the Medical Board the date of birth of the concerned workman was corrected as 17-4-37 instead of 23-9-30 vide letter No. JMB/479/004958 dated 5/6-5-85 issued by the management. In the year 1991 the concerned workman submitted his application to the Secretary, Board of Mining Examination and D.G.M.S. for re-validating the statutory Mining Sirder's Certificate. The Board of Mining Examination vide letter No. Exam/MS/5464 dated 24-8-92 informed that the concerned workman had tampered the date of birth in the above certificate from 8-7-30 to 8-7-42. The Enquiry Officer also considered D.O. letter No. Exam/C/1030 dated 17-3-94 issued by the Secretary, Board of Mining Examination and Directorate General of Mines Safety (Exam.) to the effect that they have checked up their official record and found that Ram Lakhan Dusadh had tampered his record and changed his date of birth from 1930 to 1942. By the said letter they also advised the management not to engage the concerned workman on statutory capacity unless he is medically examined as per provision of Regulation 28 of Coal Mines Regulations, 1957. The Enquiry Officer opined that the charge levelled against Ram Lakhan Dusadh has been established. From the service-sheet of the concerned workman it transpires clearly that the date of birth initially was recorded as 23-9-30 and thereafter it was rectified as 17-4-1937 as per the order of the management. Nowhere from the service record I find the date of birth of the concerned workman recorded as 8-7-42 (Ext. M-4/1). On the contrary, from the letter issued by the Director of Collieries (J) dated 5-6-85 (Ext. M-4/4) it transpires that the date of birth of the concerned workman was recorded as 17-4-37 instead of 23-9-1930 as per report of the Medical Board. By letter dated 21-8-91 issued by the Secretary, Board of Mining Examinations & Dy. Director of Mines Safety (Exam.), DGMS, Dhanbad (Ext. M-4/5) the concerned workman was asked to submit his explanation within 15 days from the date of issuance of this letter as to why the action provided under the bye-laws shall not be taken against him for tampering his date of birth as 8-7-42 in the Mining Sirdar's Certificate No. 30868 dated 7-7-71. By letter dated 24-9-91 (Ext. M-4/6) the Secretary, Board of Mining Examination directed the concerned workman to submit his Gas Testing Certificate in original for further consideration in the matter.

The concerned workman in his letter dated 30-6-92 (Ext. M-4/7) addressed to the Secretary, Board of Minig Examination categorically denying the false allegation of tampering of his date of birth submitted that in the Gas Testing Certificate issued by the Board the same date of birth was recorded. By letter dated 24-8-92 (Ext. M-4/8) the Secretary, Board of Mining Examination informed the Manager, Malkera Choutidih Colliery about tampering of the date of birth of the concerned workman not only in the Gas Testing Certificate but also in Mining Sirdar's Certificate. Therefore, considering all these paper it transpires that in two certificates i.e. Gas Tesing Certificate and Mining Sirdar's Certificate the concerned workman alleged to have tampered his date of birth. It transpires that Gas Testing Certificate No. 22856 was issued on 5-7-69 and Mining Sardar's Certificate No. 30868 was issued on 7-7-71. These two certificates were issued long before rectification of his date of birth by the management as per decision of the Medical Board. It is mandatory provision that before allowing any workman to work as Mining Sirdar the management should get themselves satisfied that he possesses the Gas Testing Certificate as well as Mining Sirdar's Certificate. It should be an official procedure to take note of the particulars recorded in the said two certificates for future reference. Obviously before getting appointment as Mining Sirdar the concerned workman produced these two certificates to the management for perusal and note. In course of hearing the management have failed to produce any copy of the Gas Testing Certificate of Mining Sirdar's Certificate either before the Enquiry Officer or before this Tribunal to show that after submission of copies of those certificates the concerned workman tampered his date of birth recorded therein. It is the finding of the DGMS that the concerned workman has tampered his date of birth in those two certificates but considering the relevant papers I am not satisfied how the DGMS have come to this conclusion against the concerned workman. In course of hearing before the Enquiry Officer the management did not consider necessary to produce any paper to show that the concerned workman before DGMS submitted any application for appearing in Mining Sidar's Examination or Gas Testing Examination wherein he disclosed his date of birth as 8-7-30 and not 8-7-42.

The Gas Testing Certificate and Mining Sirdar's Certificate were issued by the Chairman of the Board of Mining Examination in prescribed form and relevant portions were typed by that office. Therefore, it is to be established that the letter '42' of "1942" birth column was tampered and re-typed by the concerned workman. The management has got this scope to call for the relevant papers from the Board of Mining Examination to establish the claim that though in the official record the date of birth of the concerned workman was recorded as 8-7-30 in the certificates which were in possession of the concerned workman the same was tampered by him. I find no hesitation to say that the management did not consider necessary to take such trouble to pin point the allegation against the concerned workman by producing the documents from the Board of Mining Examination. This should be considered as the serious lacuna on the part of the management to substantiate the charge brought against the concerned workman.

In course of hearing before this Tribunal the management also had got ample opportunity to establish this fact. It is the claim of the concerned workman as per para 3 of the written statement that his date of birth was 8-7-40. It is admitted fact that as per decision of the Medical Bord his date of birth was changed and recorded as 17-4-37. Against that decision of the management the concerned workman did not raise any industrial dispute for rectification of his date of birth. Accordingly, the date of birth recorded by the management as 17-4-37 in view of assessment of his age assessed by the Medical Board is to be considered as final. Accordingly, on the part of the concerned workman there was no need to record his date of birth as 8-7-42 in those two certificates. Onus absolutely rested on the management to establish the allegation that the concerned workman has tampered his date of birth in those two certificates with a view to exercise fraud upon the business of the management. I have carefully considered all the materials on record but I find no hesitation to say that the management have failed to establish the charge brought against the concerned workman beyond all reasonable doubt and for which I consider that the concerned workman deserves benefit of doubt.

In the result, the following award is rendered—

The action of the management of Malkera Colliery of M.S. TISCO in dismissing the services of Ram Lakhan Dusadh, Mining Sirdar of Malkera Colliery w.e.f. 1-11-94 is not justified. Accordingly, the concerned workman should be treated in service till the date of his superannuation as per date of birth assessed by the management. The management is directed to implement the award accordingly within 30 days from the date of publication of the award in the Gazette of India.

B. BISWAS, Presiding Officer.

नई दिल्ली, 12 फरवरी, 2004

का. आ. 559.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी. एम. पी. डी. आई. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 74/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-02-2004 को प्राप्त हुआ था।

[सं. एल-20012/250/90-आई. आर. (सी-1)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th February, 2004

S. O. 559.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 74/91) of the Central Government Industrial Tribunal-cum-Labour Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of C.M.P.D.I.L. and their workman, which was received by the Central Government on 6-02-2004.

[No. L-20012/250/90-IR(C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-NO. 2, DHANBAD

In the matter of a reference U/S. 10(1)(d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 74 of 1991.

Parties : Employers in relation to the management of Central Mine Planning and Design Institute Limited.

AND

Their Workmen.

Present : Shri. B. Biswas.
Presiding Officer.

Appearances:

For the Employers	:	Shri A.K. Mishra, Personal Officer
For the Workman	:	None.
State	:	Jharkhand.
Industry	:	Coal.

Dated, the 22nd January, 2004.

AWARD

By Order No. L-20012/250/90 I.R. (Coal-I) dated 15-3-1991 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of Central Mine Planning and Design Institute Limited the management not regularising Shri Philon Kujur a scheduled tribe Casual General Mazdoor w.e.f. 12-11-87 in Category-I and also not paying all consequential differences of wages and all attendant benefits on and from 12-11-87 is justified?" If not to what relief the workman is entitled?"

2. The case of the concerned workman according to the written statement submitted by the sponsoring union on his behalf, in brief, is as follows:

The sponsoring union submitted that the concerned workman, a Scheduled Tribe candidate and a graduate has been working as General Mazdoor since October, 1987 on Muster Rolls as so-called casual discharging same/identical duties of General Mazdoor in Category-I of NCWA-IV. Since July, 1988 he has been continuously employed as Helper to Welder, termed as on Voucher Payment. The voucher payment system was adopted to deprive the workman concerned and similar other workmen their entitled status, regularisation and legal wages with consequential benefits. Initially the concerned workman was employed on duties of General Mazdoor on Rs. 15.85 per day and since July, 1988, while working as Helper to Welder, he was paid Rs. 20.25 per day without any other benefits, against the entitled wages and benefits of Category-I and Category-II respectively. They submitted that consequent upon a complaint against unfair labour practices, under a settlement dated 14-2-91 it was agreed to grant Category-I wages w.e.f. 1-1-1991. this was done during the pendency of the present dispute and without prejudice to the legal claims of the workman concerned in this dispute. They disclosed that the said settlement do not take away the Constitutional and legal rights of the concerned workman for regularisation w.e.f. 12-11-87 as Category-I General Mazdoor and in Category-II as helper to Welder w.e.f. 1-7-1988. They disclosed that the concerned workman being a member of Scheduled Tribe was constitutionally entitled to be regularised or appointed against the quota of posts reserved for Scheduled Tribe, but the management utterly violated the said provision. They submitted that the concerned workman ought to have been regularised w.e.f. 12-11-87 in Category-I but for the whimsical decision of the management he was deprived of getting his regularisation w.e.f. that date. even the management refused to pay all consequential difference of wages and all attendant benefits on and from 12-11-87 illegally and arbitrarily. The management also refused to regularise him in Category-II as Helper to Weldar w.e.f. 1-7-1988 as per provisons laid down in NCWA-IV with consequential benefits. Accordingly, the sponsoring union raised industrial dispute which ultimately resulted reference to this Tribunal for adjudication.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted on behalf of the concerned workman. They submitted that they entered into a tripartite steelement with the Union and the Asstt. Labour Commissioner (C) in relation to the regularisation of the concerned workman w.e.f. 14-2-1991 and they have taken all steps for regularising him in accordance with the terms of the settlement. They disclosed that in view of the aforesaid settlement dated 14-2-1991

the present reference is hit by the principle of res-jidicata and for which the claim of the concerned workman is liable to be rejected.

Points to be decided :

4. "Whether the action of Central Mine Planning and Design Institute Limited management not regularising Shri Philon Kujur a scheduled tribe Casual General Mazdoor w.e.f 12-11-87 in Category-I and also not paying all consequential differences of wages and all attendant benefits on and from 12-11-87 is justified? If not to what relief the workman is entitled?"

Finding with reasons :

5. It transpries from the record that after filing rejoinder and documents neither the concerned workman nor his sponsoring union appeared before this Tribunal for taking up hearing of instant case in order to substantiate their claim. They also did not consider necessary to adduce any evidence. The management too under the circumstances decllined to adduce any evidence. Therefore, it is seen that no oral evidence is forthcoming before this Tribunal to substantiate the claim or counter-claim made by the parties. The sponsoring union have submitted certain documents but inspite of getting scope they did not consider necessary to establish the said documents and for which there is no scope to take cognizance of the same in the matter of disposal of the instant reference.

6. It is the contention of the sponsoring union that the concerned workman was engaged as General Mazdoor in the month of October, 1987 on Muster Roll. Thereafter in July, 1988 he was asked to discharge his duty as Helper to Welder termed as on voucher payment. They further disclosed that as Helper to Welder the cioncerned workman has discharged his duties continuously. The further claim of the sponsoring union is that the concerned workman is a Scheduled Tribe and a graduate but inspite of knowing this fact the management did not consider necessary to give him relief as per Schedule Tribe quota illegally and arbitrarily. Accordingly, it is the claim of the sponsoring union that the concerned workman should be declared regularised in Category-I w.e.f. October, 1987 and in Category-II as Helper to Welder w.e.f. July, 1988. The sponsoring union admitted that during the pendency of industrial dispute a settlement was entered into on 14-2-1991 by which it was agree upon that the concerned workman will be regularised in Category-I w.e.f. 1-1-1991 alongwith other workmen. They submitted that though there was a settlement it does not mean that for the said settlement the claim of the concerned workman can be wiped out.

The management also in their written statement-cum-rejoinder admitted the fact of execution of a tripartie settlement in between the management, union and A.L.C. (C) in relation to regularisation of the concerned workman w.e.f. 14-2-1991 and on the basis of that settlement they have taken all steps for regularising him in accordance with the terms of settlement.

Considering the admission of both sides on the existence of tripartite settlement in the matter of regularisation of the concerned workman w.e.f. 14-2-1991 there is no dispute to hold that the concerned workman was engaged by the management as a casual worker. It is the claim of the sponsoring union that in July, 1988 the service of the concerned workman was deployed as Helper to Welder and in that capacity he continued to work continuously and for which as per provison of NCWA-IV he is to be regularised in Category-II Helper to Welder, but the managment arbitrarily and illegally ignored to regularise him in the said category. On us rests absolutely on the sponsoring union to establish that the service of the concerned workman was deployed as Helper to Welder in the month of July, 1988. They cannot avoid the responsibility to establish that in the said capacity of Helper to Welder the concerned workman continuously worked. Until and unless these facts are established there is no reason to uphold such contention, On the contrary, it is seen that over regularisation of the concerned workman a tripartite settlement was executed in between the management, union and the Government and as per the terms of said tripartite settlement it was decided that the concerned workman should be regularised w.e.f. 14-2-1991. No evidence is forthcoming that the said tripartite settlement in the matter of regularisation of the concerned workman as per terms and conditions was executed exerting undue influence or coersion upon the sponsoring union/concered workman. Accordingly, there is sufficient reason to believe that on consent of all the parties the said settlement was entered into. No. incriminating material is forthcoming before this Tribunal that the sponsoring union have taken any step to come out of the said settlement. As the said settlement is very much in existence there is no scope to challenge its legality and validity until and unless any contrary is proved. It is the contention of the sponsoring union that there was no hinderance to regularise the concerned workmen in Category-I w.e.f. October, 1987 inspite of valid existence of the said settlement. This submission of the sponsoring union cannot be taken into consideration on the ground that by entering into a settlement they have been estopped of making any such claim further. On the contrary, as the said settlement came into existence on full consent of all the parties its validity will remain inforce till it is challenged by any party. It has not been submitted by the sponsoring union that the terms and conditions as laid down in the said settlement are not valid as the same were not made as per law. It is not the contention of the sponsoring union that the said settlement was not fair and proper and in accordance with principle of netural justice. The sponsoring union cannot avoid

their responsibilities to assign reason why the managment shall be directed to regularise the concerned workman in Category-I Mazdoor w.e.f. October, 1987 ignoring the terms and conditions of the settlement which had been entered into and accepted by the parties.

5. Accordingly, after careful consideration of all the facts and circumstances I find no dispute to hold that the sponsoring union has not come with clean hand in support of their claim.

6. The facts disclosed in the written statement cannot be considered as substantial piece of evidence for acceptance. The sponsoring union as well as the concerned workman had got ample scope to substantiate their claim by adducing cogent oral and documentary evidence. Record shows clearly that inspite of getting sufficient opportunity the sponsoring union did not consider necessary to come forward with a view to substantiate their claim. Accordingly, just relying on the facts disclosed in the written statement there is no scope at all to uphold the contention of the sponsoring union for giving relief to the concerned workman according to prayer.

7 In view of all the facts and circumstances discussed above I hold that the sponsoring union/concerned workman have failed to substantiate their claim and for which they are not entitled to get any relief according to their prayer.

8. In the result, the following award is rendered—the action of the management of C.M.P.D. Ltd. in not regularising the concerned workman, Philon Kujur, casual General Mazdoor w.e.f. 12-11-87 in Category-I and also not paying all consequential differences of wages and all attendant benefits w.e.f. 12-11-87 is justified. Hence, the concerned workman is not entitled to any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 13 फरवरी, 2004

का. आ. 560.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 26/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-2-2004 को प्राप्त हुआ था।

[सं. एल-40012/111/90-आई.आर.(डी.यू.)]
कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 13th February, 2004

S.O. 560.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 26/94) of the Central Government Industrial Tribunal/Labour Court, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 13-2-2004.

[No. L-40012/111/90-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

NEW DELHI

PRESIDING OFFICER : SHRI B.N. PANDEY

I.D. No. 26/94

In the matter of dispute between :

Smt. Shashi Kanta Rishi
C/o Bhola Nath Aggarwal,
252/10, Shastri Nagar,
Kanpur-208001.
(Now at 243 GH-6 Pachim Vihar, New Delhi) ...Workman

Versus

The Director,
Telecommunication North,
Bareilly-243122 ...Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-40012/111/90-IR (DU) dated 23/31-1-91 has referred the following industrial dispute to this Tribunal for adjudication :—

> "Whether the action of the Director (North) Bareilly in engaging Smt. Shashi Kanta Rishi as Casual Labour and utilising as Typist and not absorbing her in regular service and terminating her services in October, 1989 is justified ? If not, what relief she is entitled to and from what date ?"

2. In brief the claim of the workman, as per the claim statement are that she was working on the post of typist w.e.f. 23rd January, 1984 under the Management, that on account of her illness, she went to Delhi on 10-10-89 with her husband for her treatment and also informed the management and she also sent medical certificate from time to time to the Management; that despite her medical certificates the management issued a letter on 4-11-89 stating that now her services were no longer required; that after her treatment when she went with her medical certificate to report for duty she was informed that her services were terminated w.e.f. 4-11-89; that her termination was totally illegal; that she is M.A. pass and was engaged by the management as a class III employee and work of typist was being taken from her;

that while working as a typist (Class III). She always took part in departmental competitive tests of class III employees organised by the management and she always performed well; that during her employment from 1984 to 1989 she completed more than 240 days of his working days in each year and that there was no complaint at all against her during her service; that her termination from service during her illness was totally illegal and against the provisions of law and is liable to quashed. The workman has prayed that she should be reinstated on the permanent post of Typist in the service with continuity of service and full back wages along with interest and costs of the case.

3. The management respondent filed written statement contesting the claim of the workman. It has been inter alia alleged that the workman was never appointed as a typist in Class III as there was no vacant post of typist under the management, that the workman was paid her wages regularly according to her work as prescribed by the Govt. of India, and there was no question of granting any kind of leave to her as she was only a casual worker; that the workman was never appointed as a typist therefore the alleged orders of the Telecom Department were not applicable in her case; that the casual workers were paid for their work according to their working days; that the workman had adopted the habit of being absent and thereby creating problems and difficulties to the employers, hence there was left no alternative with the management except to terminate her services; that the claim of the workman cannot be allowed. Besides, a preliminary objection was also raised that the telephone department does not come within the purview of 'Industry' hence the claim was not maintainable.

4. Rejoinder to the written statement was also filed by the workman denying the contentions of the management and reiterating her earlier allegations made in the claim statement.

5. Initially, the dispute was referred by the Central Government to the Industrial Tribunal, Kanpur for its adjudication but later on it was transferred to this Tribunal for adjudication. Thereafter the then Presiding Officer of this Tribunal passed an award dated 1st December, 1997 and held that in view of the Hon'ble Supreme Court's decision reproted in 1996 LLR 483 the telecom department is not an 'Industry' under Section 2(j) of the I.D. Act, 1997, hence the reference is not maintainable. The said award dated 1st December, 1997 was challenged by the workman before the Hon'ble High Court of Delhi and was quashed vide its order dated 7th April, 1999 in view of the Apex Court's another judgement in which the Telecom Department was held as 'Industry' and accordingly the matter was remanded to this Tribunal for disposal according to law.

6. Both the parties have filed various documents in support of their case. Besides, the workman Smt. Shashi Kanta Rishi has also filed her own affidavit in oral evidence and was not cross-examined by the management.

7. I have heard the parties and perused the file.

8. The workman claims that she had continuously worked as a typist w.e.f. 23-1-89 to 10-10-89 under supervision of the management and that during that period she continuously worked for more than 240 days in each year till 10-10-89 and had acquired regular status in the service but she was illegally ousted from service without compliance of any provisions of law. On the other hand the management has not specifically denied the fact that she was not engaged and did not work during the alleged period as claimed by the workman. There is only evasive denial of the facts in the written statement but in various documents filed by the management it has been admitted that the workman was engaged as a casual labourer because her father was due to retire in the year 1984-85 and pecuniary condition of their family was not good and also on humanitarian ground; that she was engaged against a vacant post in group 'D' and that she had worked since January, 1984 in various months for which she was paid on the fixed rate of the Govt. the detail of which have been given in Annexure 'B'. It has also been alleged that on account of her marriage in Delhi in 1989 she had to left the service at Bareilly in October, 1989 for which she did not inform to the department verbally or in writing. The Annexure 'B' to the written statement filed by Assistant Director Door Sanchar North Circle, North Bareilly shows that she has been working as a casual labour on daily wages since January, 1984 to 1989 for which she was also paid. Annexure 'Ka' to the w.s. paper No. 10/1/C dated 7-10-89 shows that she was a casual labour and was issued a letter as a warning by Sri R. Chandra, the Asstt. Director Door Sanchar (Administration) to be regular in her attendance. In reply dated 17-7-91 by R. Chandra, Asstt. Director Door Sanchar filed before the C.G.I.T. Labour Court, Kanpur in the instant case also it was alleged in para 3 that she was engaged as daily wages worker and on account of her irregular presence, her services were terminated. It has also been alleged that in fact on account of her unauthorised absence her services were terminated by the management w.e.f. 4-11-89. Another document paper No. 13 dated 9-5-89. Bareilly, on the record, shows that the workman Km. Shashi Kanta Rishi was shown as a typist (Tankak) and it was mentioned therein that in a quarterly 'Hindi Pragati' Meeting held on 4-5-89 at 4.30 PM in Presidentship of Director Door Sanchar Circle North Bareilly, Km. Shashi Kanta Rishi had also taken part alongwith other officers and officials of the department. This report of the Meeting was also signed by Assistant Director Shri H. S. Sharma. There is another document annexed as enclosure No.(7) Paper No.17 to the affidavit of workman in the shape of a character certificate dated 16-4-86 issued by Shri R. Chandra, Assistant Director Telecom North Area Bareilly which shows that it was certified "that Km. Shashi Kanta

Rishi daughter of Atam Parkash Rishi has been serving as Typist (English & Hindi) on daily wages since 23rd January, 1984 in the office of Director Telecom (Northern Area Bareily). She is an efficient, hard working and a responsible typist. She also knows shorthand (English). I wish her every success". Besides, in various other copy of documents of the telecom department filed by the workman, the workman Shashi Kanta Rishi, was always mentioned as 'typist'. In the order of distribution of works amongst officials and officers in the office of the Director Telecom North Bareilly, she was mentioned as 'Typist'. Again in another document she was mentioned as 'Typist'. These documents have not been denied or rebutted by the management. A list showing details of attendance and payment of the workman as a casual labour/daily wages filed as Annexure 'B' by the management on the record shows that the wokrman had worked for more than 240 days in various years regularly w.e.f. January, 84 to 1989. The affidavit of the workman filed on the record is also unrebutted. She was also not cross-examined. Therefore, I find no reason to disbelieve it. The various documents placed on the records go to show that she was working as a typist w.e.f. January, 1984 to 30th September 1989. Admittedly she was engaged as a casual labour on daily wages. She worked for about 5 years and accordingly she had worked for many 240 days within 12 calendar months before her termination and thereby acquired certain rights in service. There is nothing on the record to show that any provision of law was followed before terminating her services. If her services were terminated on account of unauthorised absence, the management should have proceeded against her according to law as unauthorised absence amounts to misconduct in service but nothing was done. Besides, even the department of telecom Govt. of India has issued various instructions and letters as placed on the record that the industrial disputes Act. 1947 will apply while retrenching the casual labourers in the department. But there is nothing on the record to show that the provision of Section 25-F of the I.D. Act. 1947 were followed. The Hon'ble Supreme Court of India in M/s. Scooters India Limited *Vs.* M. Mohd. Yakub reported in 2001 LLR 54 has held that :

> "Even when a workman fails to report for duty, Management cannot presume that the workman has left the job. The principles of natural justice have to be observed."

9. In the instant case, I find that the management did not allow the workman to resume her duty. The Management terminated her services without following the provision of law and principles of natural justice. Provisions as contained in Section 25-F of I.D. Act were also not followed. She was neither given any notice of retrenchment, nor notice pay no compensation. The workman has successfully proved her case and the management has failed to rebut it. I find, that the management has acted arbitrarily in terminating the services of the workman.

10. In writ petition No. 373 of 1986 "Daily Rated casual Labour Employed under P & T Department through Bhartiya Dak Tar Mazdoor Manch Vs. Union of India the Hon'ble Supreme Court has held "that it is against this background that we say that non regularisation of temporary employees or casual labour for a long period is not a wise policy. We, therefore, direct the respondents to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraph Department". The workman was thus entitled to be absorbed in regular vacancy after completing about 5 years service as typist". There is nothing on the record to show as to why she was not considered for regularisation in service.

11. Further in a case reported in 1986 LLJ page 403 Surendra Singh and another *Vs.* Engineer in chief C.P.W.D. & Others, the Supreme Court has held that "Daily wage' Employees of Central Public Works Department are entitled to pay and allowances on par with permanent employees Central State Government and public sector undertakings should function as model employeers".

12. It has also been held by the Hon'ble Supreme Court of India in Bhagtwati Pd. *Versus* Delhi State Mineral Development Corporation reported in 1990(1) LLJ page 320 a copy of which is on the records that :—

> "the daily rated workmen who seek regularisation of their employment and payment of wages equal to the regularly appointed persons doing similar duty— all the petitioners are entitled to equal pay at par with the persons appointed on a regular basis to similar posts or discharge similar duties and are entitled to the scale of pay and all allowances revised from time to time."

13. In view of the above discussions, I find that the management acted arbitrarily and illegally in terminating services of the workman w.e.f. October, 1989 and not absorbing her in regular service in accordance with existing instructions of the Deptt. of Telecom for regularisation of casual labour and in view of the judgement of the Hon'ble Supreme Court in writ petition No. 373 of 1986 "Daily Rated Casual Labour Employed under P & T Department through Bhartiya Dak Tar Mazdoor Manch *Versus* Union of India and others" mentioned above.

14. The action of the management, therefore, cannot be justified. Hence claim of the workman deserves to be allowed and the termination order quashed. The management has failed to prove that the workman was in any gainful employment during the period of her forced unemployment due to her illegal termination of service by the management. Therefore, the workman is entitled to be reinstated in the service with continuity and all

consequential benefits regularisation etc. on the post of typist in class III alongwith full back wages equal to regular employees with in two month from the date of publication of the award in the official gazette. Award accordingly.

Dt. 12-2-2004

B. N. PANDEY, Presiding Officer

नई दिल्ली, 27 फरवरी, 2004

का. आ. 561.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 01 मार्च, 2004 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले ही प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"जिला तथा तालुक तिरूवनन्तपुरम के राजस्व ग्राम- उल्लूर के अधीन आने वाले क्षेत्र"।

[संख्या एस-38013/08/04-एस. एस.-I]

के. सी. जैन, निदेशक

New Delhi, the 27th February, 2004

S. O. 561.—In exercise of the powes conferred by Sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2004 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely :—

"Ulloor Revenue Village in Thiruvananthapuram Taluk & District".

[No. S-38013/08/04-SS.I]

K. C. JAIN, Director

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